

REPORT  
OF  
THE BONUS REVIEW COMMITTEE  
  
  
  
  
1974



GOVERNMENT OF INDIA  
MINISTRY OF LABOUR

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**CHAPTER I**  
**INTRODUCTION**  
**CONSTITUTION OF COMMITTEE AND**  
**TERMS OF REFERENCE**

The Bonus Review Committee was constituted by the Government of India, Ministry of Labour and Rehabilitation (Department of Labour and Employment) under Resolution No. U-23018/1/72-WB dated the 28th April, 1972. The text of the Resolution is as follows :—

"The Government of India have decided to constitute a Committee to review the operation of the Payment of Bonus Act, 1965. The composition and terms of reference of the Committee will be as follows :

*I. Composition*

*Chairman*

Dr. B. K. Madan

*Members*

1. Shri N. S. Bhat
2. Shri Harish Mahindra
3. Shri R. P. Billimoria
4. Shri G. Ramanujam
5. Shri Satish Loomba
6. Shri Mahesh Desai
7. Dr. S. D. Punekar

A Member Secretary will be appointed by Government.

*II. Terms of Reference*

To review the operation of the Payment of Bonus Act, 1965, and to suggest suitable modifications to the scheme outlined therein and, in particular, to make recommendations on the following issues :—

- (i) Whether establishments (other than factories) employing less than 20 workers, may be covered by the Act and if so, upto what limit of employment? Should there be a separate formula for payment of bonus in these small establishments?
- (ii) Is there a case for raising the minimum bonus (4%) and if so, to what level?
- (iii) Whether the present upper limit on payment of bonus and the system of 'set-on' and 'set-off' require any alteration and if so, on what lines?

- (iv) Whether the entire bonus payment should be related in some way to production/productivity in the undertaking?
- (v) Whether the present minimum bonus of 4% may continue but a provision be made for its being supplemented through suitable schemes of production/productivity?
- (vi) To consider and make recommendations on any connected/ancillary matters.

The Committee shall also make a careful assessment of the likely impact of its recommendations on the national economy before finalising them".

1.2 On 5th June, 1972, Shri K. R. Wazkar, Retired Registrar of the Industrial Court, Bombay was appointed as Secretary of the Committee.

*Interim Enquiry and Report*

1.3 The first meeting of the Committee was held on the 5th June, 1972 at Bombay. The proceedings of the meeting were inaugurated by the Minister of Labour, Shri R. K. Khadilkar who addressed the members. The Minister of Labour of Maharashtra, Shri Narendra Tidke, also addressed the meeting.

Soon after the inauguration, the Committee met and decided to invite advance submissions from parties on the subject of minimum bonus in view of the urgency of the problem.

1.4 Accordingly on 12th June, 1972, a press communique was issued inviting the views of organisations of labour and employers on the Committee's terms of reference (ii) and (v) relating to the question of minimum bonus and the possibility of linking it above a level to schemes of production/productivity. The views of organisations of employees and employers were also especially invited through a circular letter addressed to them (Appendix A). This action was taken pending the issue of a detailed questionnaire on the full terms of reference.

1.5 Although the terms of reference of the Committee did not call for submission of an interim report on the question of minimum bonus, the Committee decided to consider and make recommendations on items (ii) and (v) of the terms of reference relating to minimum bonus and the manner of increase therein in view of the apprehension that industrial relations might deteriorate seriously unless the Committee addressed itself urgently to this issue. In

coming to this conclusion, the Committee had considered the obvious shortcomings of the procedure of an interim report on some aspects only of its terms of reference as against the apparently insistent need of acting to allay the under-current of intense industrial unrest.

1.6 At the second meeting of the Committee held on 28th June, 1972, the programme for hearing the oral evidence of representatives of organisations of labour and employers on the issue of minimum bonus was finalised. Sittings for recording oral evidence on the terms of reference (ii) and (v) were held in Bombay in two series of sessions: the first series of sessions was held on the 24th, 25th and 26th July, 1972 when the representatives of the Central Organisations of Labour and the all-India Federations of Unions affiliated to them were heard. The second series of sessions was held on 31st July, 1st and 2nd August, 1972 when the representatives of the Central Organisations of Employers and the all India Federations of Employers of different industries affiliated to them appeared before the Committee to tender oral evidence. In addition, some important public sector undertakings like Hindustan Steel, Air-India, Fertilizer Corporation of India, National Coal Development Corporation and Bharat Heavy Electricals, also responded to the Committee's invitation to submit written memoranda as well as oral presentations with regard to their respective sectors.

1.7 Subsequently, meetings of the Committee were held on 10th and 11th August at Bombay, 22nd & 23rd August at Bangalore and 2nd and 3rd September at Bombay and finally on 12th September at New Delhi to consider and arrive at interim conclusions and recommendations on two of the issues referred to it. In the absence of unanimity two interim reports signed by four members each—one report by the Chairman and Sarvashri Bhat, Mahindra and Punekar and another report by Sarvashri Billimoria, Ramanujam, Satish Loomba and Mahesh Desai were submitted to Government on the 13th September, 1972. Both reports were published by the Government during 1973, with a time-lag after their submission, and these reports are not appended to this report.

1.8 In the former report it was recommended that: (a) the minimum bonus for establishments making a net profit should be 8½ per cent; the corresponding absolute figures of minimum bonus for such establishments were to be Rs. 80 and Rs. 50 for persons above and below the age of 15, respectively; and (b) when an establishment, according to the profit and loss account, did not show a net profit the minimum bonus should be 5 per cent; the corresponding absolute figures of minimum bonus for such establishments were to be Rs. 50 and Rs. 32 for a person above and below the age of 15 respectively. Net profit for the purpose of the above was to be equal to gross profits as defined in the second schedule to the Payment of Bonus Act subject to the following deductions : (i) depreciation as in section 6(a) of

the Payment of Bonus Act, and (ii) 2 per cent of the total wage and salary bill of a concern in respect of employees eligible for bonus under the provisions of the Act. In the case of a banking company the profit which would attract the higher minimum bonus was to be the gross profits as defined in the first schedule to the Act subject to the following deduction: (i) any sum which in terms of the Third Schedule item 2(iv) (a) and (b) was transferred to reserve or (ii) 2 per cent of the total wage and salary bill of a banking company in respect of employees eligible for bonus under the provisions of the Act (Paragraph 4.42 of the Interim Report).

1.9 In the latter report it was recommended that there should be an increase in the minimum bonus from 4 per cent to 8½ per cent. The absolute figures mentioned in Section 10 of the Act should also consequently be raised to Rs. 80 and Rs. 50 respectively for those above and below the age of 15 so that the workers get whichever is higher of the two. It was also recommended that Section 10 of the Payment of Bonus Act on payment of minimum bonus be amended accordingly.

1.10 It will be seen that the underlying idea in the first report was to restrict the increase in minimum bonus rate in respect of the small proportion of concerns making either a loss or profit inadequate to pay a minimum bonus, to 5 per cent and to apply the 8½ per cent minimum bonus rate to all other (the vast majority of) concerns which made a net profit, including those whose net profit was modest and would be converted into a loss on payment of the minimum bonus; in terms of the recommendation of this report the minimum bonus rate would, of course, be 5 per cent. The second report, however, expressed its strong dislike of two minimum bonus rates, for loss-making and profit-making establishments respectively, and recommended a straight increase in the minimum bonus rate to 8½ per cent for all employees. Both the reports noted that the central organisations of employers and workers were alike against the possibility of linking minimum bonus with production/productivity and neither report nor the Committee recommended that any part of minimum bonus should be linked to production/productivity.

1.11 Both the reports recommended that for the time being the concept of bonus in the Payment of Bonus Act should remain unchanged.

#### Government Action on Interim Enquiry

1.12 After considering the reports the Government decided *inter alia* that (i) the statutory minimum bonus payable to workers covered by the Payment of Bonus Act shall be raised from 4 per cent to 8½ per cent for the accounting year commencing on any day during the year 1971, and (ii) payment may be made in cash in full to all employees eligible under the Payment of Bonus Act to receive bonus upto 8½ per cent. Where payment of more than 8½ per cent was to be made for the said accounting year, the

itive that is plus difference, if any, between the amount to be made for the said accounting year and payment made during the accounting year 1970-71 (where it was in excess of 8½ per cent) to be deposited into the Provident Fund Account of the beneficiaries. Consequently, the Payment of Bonus Amendment Ordinance No. 8 of 1972 was promulgated by the President on 23rd September 1972 to give effect to the above decisions of the Government. Subsequently, the ordinance was replaced by the Payment of Bonus (Amendment) Act No. 68 of 1972.

1.13 On 2nd June, 1973, the Labour Ministry advised Employers' Organisations to pay a minimum bonus of 8½ per cent for the accounting year 1972, since bonus payment for the accounting year 1972 had become due in many cases. However, as many employers did not respond to Government's appeal to pay 8½ per cent for the year 1972, Government introduced the Payment of Bonus (Amendment) Bill which was passed by Parliament (as Act No. 39 of 1973) towards the end of August 1973 making it obligatory for the employers to pay a minimum bonus of 8½ per cent also for the accounting year 1971-72.

1.14 Soon thereafter several trade union organisations represented to Government for payment of the entire bonus in cash and deletion of the statutory requirement to pay any part of it into the provident fund, on the score that there had been widespread lay-off of employees in several industries on account of drought and severe power shortage and labour had, consequently, been adversely hit. Accordingly an amending bill to the Bonus Act to enable payment of the entire bonus in cash was introduced in the later session of Parliament and was passed into law (Act No. 55 of 1973). Currently, action to extend the higher minimum bonus for a further year is reported to be under consideration by the Government.

#### Questionnaire and Programme of main Enquiry

1.15 At the meeting of the Committee held on 25th June, 1972 it was decided to issue a questionnaire relating to the full terms of reference of the Committee. A questionnaire (Appendix B) was therefore issued on the 24th July, 1972 to organisations of employers and labour in the public and private sectors, to financial institutions including banks and other institutions, e.g., Life Insurance Corporation of India, Reserve Bank of India and associated lending and other institutions, to the Central Government Ministries and Departments and State Governments, Universities etc. Appendix C gives the list of replies to the questionnaire received from various organisations and units in the private and public sectors. With the unusual public interest in the interim stage of the enquiry, and a period of quietence that followed, the replies to the questionnaire for the full terms of reference were somewhat delayed.

1.16 Between November 1972 and April 1973, the Committee held 22 sittings for taking oral evidence for the main part of its enquiry at Bangalore, Calcutta, Ahmedabad, Madras, New Delhi, Ranchi and Bombay, with a small spillover at the end of May 1973 to Ootacamand where the Committee started its deliberations for the concluding stage of its work. Appendix D contains the list of persons who appeared on behalf of various organisations before the Committee to tender oral evidence.

1.17 One of the members of the Committee, Shri Satish Loomba of the All India Trade Union Congress, died in a tragic air accident while returning from the Committee's Ooty meeting at the end of May 1973. The Committee members requested the Government to nominate a successor member from the AITUC. Having failed, however, to obtain any proposal for replacement on behalf of the All India Trade Union Congress, Government informed the Committee accordingly and requested the Committee to go ahead and complete its work. The letter to the Chairman from the Minister for Labour, dated the 9th August, 1973 and the Chairman's letter of June 20, 1973 to the Minister are reproduced as Appendix E.

1.18 Further meetings of the Committee were held at Bombay and Madras as indicated below to formulate conclusions and recommendations :

20th and 21st June, 1973	Bombay
3rd and 21st August, 1973	
13th and 14th September, 1973	Madras
27th and 28th September, 1973	Bombay
7th, 8th and 9th November, 1973	Madras
21st and 27th January, and 17th February, 1974	Bombay
23rd April, 1974	Delhi
18th May, 1974	Bombay
22nd and 23rd July, 1974	Bangalore
9th and 27th September, 1974	Bombay

#### Scheme of the report

1.19 In Chapter II we proceed to set out the evolution of the system of bonus in India as a background to the present enquiry into the system. Chapter III seeks to review the practices and experience in regard to bonus, mainly profit-sharing schemes in foreign countries, again primarily as a background to our own consideration of the problem. Chapter IV covers another important aspect of the context of our enquiry, namely, a broad view of the recent economic background and trends so as to be able to assess the likely impact of our recommendations on the national economy. In view of the importance of this aspect of the terms of reference the next chapter attempts a review of the financial trends in industry and trends in the distribution of bonus during the period since the Payment of

Bonus Act was passed. Chapter VI extends the economic conspectus of the enquiry to pass under review recent trends in certain aspects of the distributive shares of the national product such as the real earnings of labour, and relationship of wages to value added by manufacture, and attempts some analysis of the underlying factors. In Chapter VII we refer to some aspects of the question of minimum bonus with which the Interim Reports of the Committee dealt. We then proceed to consider in the following Chapter the terms of reference of the Committee regarding establishing a possible nexus between the scheme of bonus recommended by us and production/productivity. Chapter IX starts with an examination of some proposals for an alternative basis for the general scheme of bonus in the country and recommends adherence to the present broad framework for the determination and regulation of bonus in India subject to suitable changes. Chapter X takes up for consideration the question of maximum bonus, the related 'set on' provision and the salary levels of the employees for being eligible for bonus; it touches on the problem of payment of bonus beyond certain limits in forms other than cash. Having dealt with the main elements of the bonus formula, the Report goes on in Chapter XI to consider the argument advanced before the Committee on the blend of collective bargaining and legislative prescription as incorporated in Section 34(3) of the Act. Chapter XII

continues the description of the system as proposed by us with reference to various issues relating to eligibility to bonus, e.g., the minimum number of days worked as a condition of eligibility; the question of bonus holiday; the treatment of seasonal industries; the problem of dismissed employees and bonus; bonus and apprentices, etc. Chapter XIII considers other miscellaneous questions arising out of a study of suitable modifications of the present legislation, e.g., the presumption of accuracy of audited accounts; machinery for settlement of disputes and mode of recovery. Chapter XIV goes on to consider the question of extension of coverage of the Act to smaller establishments. Chapter XV takes into consideration the problems of some specialised industries e.g. electricity and plantation industries, and makes recommendations in respect of these. Chapter XVI deals with the important specialised industry of Banking, which already has a special place under the Act. Chapter XVII considers the problem of bonus in relation to another specialised industry : Insurance. Chapters XVIII to XXII proceed to deal with the issues of extension of 'bonus' or an equivalent thereof to institutions and undertakings at present excluded from the scope of the Act, e.g., Reserve Bank of India, RBI-associated institutions, Dock and Port workers, Public Sector Undertakings, and departmentally-run Governmental Undertakings. A summary of conclusions and recommendations is given at the end



## CHAPTER II

### EVOLUTION OF THE SYSTEM AND CONCEPT OF BONUS IN INDIA : BACKGROUND OF ENQUIRY

#### **Origin of the System of Bonus**

The genesis of the present annual profit bonus in India can be traced to the later stages of the First World War. In July 1917, a 'War Bonus' equivalent to 10 per cent of wages was granted by the employers to cotton textile workers in Bombay. This was increased to 15 per cent in January 1918. Later, after some agitation following a strike in a few textile mills, the employers agreed to increase the war bonus to 35 per cent, which was treated as a 'special allowance' on account of the high price of food-stuffs. Thus in its origin bonus was of the nature of dearness allowance, being a payment partly to compensate for the rise in the cost of living. This practice of granting war bonus continued in 1919 and 1920 when on the recommendation of the Committee of Bombay Millowners, member mills agreed to pay bonus equal to one month's wages as in the previous years. Similar bonuses were declared in November 1921 and November 1922.

2.2 In July 1923, the Millowners announced that on account of unfavourable trading conditions, with the demand for cloth and yarn having declined, they would, regrettably, not be in a position to pay bonus for the years 1923 and 1924. This led to a general strike in the textile industry in Bombay towards the end of January 1924. Consequently, in February 1924 a Bonus Dispute Committee was appointed by the Government of Bombay with Sir Norman Macleod, Chief Justice of Bombay High Court as Chairman to consider, among other things, whether there had been established any enforceable claim—customary, legal or equitable—for receipt of bonus by labour.

2.3 On behalf of the employees it was argued before the Macleod Committee that owing to the continued payment of bonus for five consecutive years the workmen looked upon the annual bonus as part of the wages and they considered that they had a just claim for annual bonus against the millowners. The Macleod Committee came to the conclusion that no customary, legal or equitable right to annual payment of bonus which could be upheld in a court of law had been established.

2.4 Voluntary payment of bonus was also made in the Buckingham and Carnatic Mills, Madras, "where from the year 1919 bonus was paid to its employees

at the same rate as dividend was declared for the ordinary shareholders and the purpose of payment was given in a contemporaneous notice issued by the mills as emanating from the desire of the directors of the company to give the workpeople an interest in the profits of the mills as is done in some English companies."<sup>(1)</sup>

2.5 The period that followed the recommendations of the Macleod Committee witnessed a continued and steep decline in prices associated with onset of the Great Depression, and the question of bonus receded into the background.

2.6 During the period of the Second World war with resumption of a strong uptrend in prices the question of payment of bonus to industrial and other workmen again came to the forefront. In March 1940 there was a general strike in the textile mills in Bombay on the question of dearness allowance. The Government of Bombay which was closely watching the progress of the dispute suggested to the mill-owners that although a dispute had arisen on the question of dearness allowance, the contributory factor was a desire on the part of the workers to share in the profits which accrued to the industry in consequence of war conditions. The Millowners' Association gave assurance that the industry would consider sympathetically any reasonable proposal for the grant of bonus and ultimately after some further persuasion from Government, decided that the textile workers should be granted a cash bonus equivalent to 12½ per cent of their actual earnings (exclusive of dearness allowance) for the period 1st January to 31st December 1941. The Government of Bombay in a press note issued thereafter recorded their appreciation of the readiness of the Millowners' Association to recognise its obligations to labour and expressed its own view that the bonus was fair and reasonable. The Government further observed that labour would reciprocate the gesture of goodwill on the part of the employers in the same spirit which prompted the employers to make it.<sup>(2)</sup> In the following years the Millowners' Association voluntarily decided to pay bonus equivalent to one-sixth of the total earnings exclusive of dearness allowance and the practice continued till 1945.

2.7 It would appear from the above account that it would not be incorrect to say that the system of payment of bonus in the country was a legacy of the

(1) G. B. Pai : Bonus—Indian Law & Practice, p. 6.

(2) Report of the Bonus Commission, p. 4, paragraph 2.11.

First World War and took firm root during the Second World War.

### **Evolution of the concept and system of Bonus**

2.8 In the early days of bonus in India, payment of an annual bonus was never considered as a contractual obligation of the employers because it was not a term or condition of service, or a part of express or implied contract. It was an *ex gratia* payment in addition to the wages earned during the year. The payment was usually made once a year at the time of festival like Diwali, Pooja or occasionally, Christmas. Such extra payment was not based on any theoretical considerations; it is only later when the practices of bonus payments were interpreted by Adjudicators or Tribunals to underpin awards for bonus payments in the disputes before them that concepts of bonus came to be evolved. During the Second World War the Government promulgated the Defence of India Rules with a view to preventing prolongation of industrial disputes which might hamper the war effort. Under rule 81-A of the Defence of India Rules a provision was made to refer industrial disputes to compulsory adjudication by *ad hoc* adjudicators who were appointed from time to time. The industrial disputes also included in certain cases demand for payment of bonus. It is in the awards of these adjudicators that we find discussion of the nature of payment of bonus and the right of workmen to claim such bonus, the relation of bonus to wages, etc. The concept of bonus in its present form thus progressively emerged in stages somewhat as follows :

(i) Profits are made possible by the contribution of both capital and labour to industry and labour has a right to share in the increased profits that are made. But distribution of increased profits among the workers is better achieved by the giving of an annual bonus than by further increases in wages; wages should be fixed on the basis of normal condition.<sup>(3)</sup>

(ii) For a long time the claim to bonus was not considered as a legally enforceable right (in civil law) but was awarded on principles of justice, equity and good conscience with a view to keeping labour contented. But later on in the decision given by the Bombay High Court in the case of Indian Hume Pipe Co. vs. E. M. Nanavati (48. Bom. L.R. 551) it was held that the payment of bonus could be demanded by the workmen as a right, that is to say, as a payment which should be made by the employer as extra remuneration for work done by the employees in a contract, express or implied.

(iii) The Industrial Court, Bombay in its award in the dispute pertaining to bonus for the year 1946 went further and observed : "The justification for such demand (for bonus) as 'industrial matters' arises specially when wages fall short of the living wage standard and the industry makes huge profits part of which are due to the contribution which the workers make in increasing production. The demand for bonus is therefore an industrial claim when either or both these conditions are satisfied." The Industrial Court observed moreover, that the workers might reasonably ask for bonus when there were enhanced profits, when dividends were paid out after providing for taxation and depreciation—especially when their wages were below the living wage standard.<sup>(4)</sup>

(iv) When bonuses have been regularly paid in the past it is fair to suppose that the employees have always depended on bonus, as on the allowances, for part of their income.<sup>(5)</sup>

2.9 In May 1948 a Committee on Profit-Sharing was appointed by the Government of India, Ministry of Industry and Supply. The Committee expressed the view that giving labour a share in the profits of the industry over and above wages would create psychological conditions favourable to the restoration and maintenance of industrial peace.

### **Gap Theory of Bonus**

2.10 One of the concepts of bonus is that bonus is paid to fill the gap between the actual wage and the living wage. So long as the living wage is not paid to the employees and so long as the employers make profits, the employee has a right to receive an annual bonus, with the purpose first of filling partially the gap between the actual wage and the living wage; once the living wage was reached, bonus would partake of the character of profit-sharing. This concept was accepted by, and underlay the judgements of, Industrial Courts and was confirmed by the Labour Appellate Tribunal in the case of the Millowners' Association. Bombay *versus* Rashtriya Mill Mazdoor Sangh (1950 II LLJ page 1253) when it observed as follows :

"Now bonus is a cash payment made to employees in addition to wages. It cannot any longer be regarded as an *ex gratia* payment, for it has been recognised that a claim for bonus, if resisted, gives rise to an industrial dispute, which has to be settled by a duly constituted Industrial Court or Tribunal.. . . . . Where the goal of living wages

(3) Award of Mr. Justice Chagla in General Motors Ltd., Bombay Labour Gazette, June 1948, pp. 1030—33.

(4) See also Bonus Commission's Report, p. 5, paragraph 2.18.

(5) Award of Shri K. B. Wassoodeew in Imperial Chemical Industries Ltd., Dyes Department *vs.* its employees. Bombay Government Gazette dated 3-2-1944, Part I., p. 180.

has been attained bonus, like profit-sharing, would represent more as the cash incentive to greater efficiency and production. We cannot, therefore, accept the broad contention that a claim to bonus is not admissible where wages have (as in the case before us) been standardised at a figure lower than what is said to be the living wage. Where the industry has capacity to pay, and has been so stabilised that its capacity to pay may be counted upon continuously, payment of 'living wage' is desirable; but where the industry has not that capacity or its capacity varies or is expected to vary from year to year, so that the industry cannot afford to pay 'living wages', bonus must be looked upon as the temporary satisfaction, wholly or in part, of the needs of the employee. In the case before us wages of the employees had been standardised by an award made by the Industrial Court, Bombay, in References Nos. 1, 4 and 5 of 1946, published in the Bombay Government Gazette Extraordinary, dated the 2nd June 1947. It is not denied that the standardised wage falls short of the 'living wage' as some of the other factors which contribute towards a 'living wage' are still wanting".

2.11 This very theory of bonus was also advanced before the Bonus Commission. While considering the concept, the Bonus Commission observed that the concept that bonus was designed to fill the gap between the actual wage and the living wage was beset with difficulties. The Commission further stated that "the gap theory would also imply that bonus would diminish as the living wage is approached and would cease when the living wage is reached and that an industry which pays the living wage need not pay bonus. Actually the highest bonuses are paid, under awards and agreements, to workmen in industries where the wages are high; and since bonus is ordinarily paid at a uniform rate no distinction is made between workmen drawing a low wage and those who may be drawing what may be considered, in the circumstances of a particular time and place, to be already living wage. The gap theory also implies that if an industry or concern can afford to pay the living wage, it should do so as a wage rather than as bonus."<sup>(6)</sup>

#### Bonus Commission on Concept of Bonus

2.12 The Commission did not define the concept of bonus although it was asked by the first term of reference to do so. The Commission was of the view that "it is difficult to define the concept of bonus

in rigid terms, but it is possible to urge that once profits exceed a certain base, labour should legitimately have a share in them. In other words, we think it proper to construe the concept of bonus as sharing by the workers in the prosperity of the concern in which they are employed. This has also the advantage that in the case of low paid workers such sharing in prosperity augments their earnings and so helps to bridge the gap between the actual wage and the need based wage."<sup>(7)</sup>

2.13 In the Cotton Textile Industry in Ahmedabad and later in Bombay, Millowners' Associations and the representative unions had concluded five-year pacts which contained provision for the payment of minimum bonus even if there was a loss in a particular year to be 'set off' against the profits of the subsequent years, and, similarly, with a maximum bonus of 20 per cent of basic wages for any excess profits over this rate to the 'set on' against possible losses or deficiencies in profits in future years for maintenance, as far as possible, of the rate of bonus. Following the practices in these pacts the Bonus Commission recommended the same pattern with the difference that while the Ahmedabad formula provided for 4 per cent and 20 per cent respectively of basic wages as minimum and maximum bonus, the Commission recommended these percentages of total wages, viz., including dearness allowance. These percentages accordingly came to find a place in the Payment of Bonus Act.

2.14 Industrial profits tend to fluctuate and are liable to ups and downs. They do not, however, follow any definite pattern from year to year. For a number of years a concern may make profits and then enter a phase of loss to be followed again by profits. It was in this context that the Bonus Commission recommended a scheme having maximum bonus and minimum bonus with 'set on' and 'set off' (viz., carry-forward to the succeeding year of allocable surplus, whether positive or negative) based on the concept of the prosperity of the concern averaged over a series of years and not confined to a single year. In the case of Jalan Trading Co. vs. Mill Mazdoor Union (1966 II LLJ p. 546) the Supreme Court observed : "This scheme of prescribing maximum and minimum rates of bonus together with the scheme of 'set on' and 'set off' not only secures the right of labour to share in the prosperity of the establishment but also ensures a reasonable degree of uniformity".

#### Bonus—A dual Concept

2.15 The concept of bonus as it has evolved thus partakes of elements of a dual character inasmuch as bonus in general, where there is an amount of available surplus which permits payment of a bonus higher

(6) Bonus Commission's Report, p. 19, paragraph 3.20.

(7) Ibid, Paragraph 3.20 and 3.21.

than the minimum bonus, has the character of profit-sharing; on the other hand, minimum bonus which has to be paid in the absence of profits and even with losses, operates *in effect* as an addition or supplement to wage salary, though it does not conform, in any precise sense, to the concept that the bonus is paid to fill the gap between the actual wage and the living wage, for reasons which have been elaborated by the Bonus Commission in relation to the gap theory.

2.16 At this point, we may reiterate what has been indicated in our Interim Reports as to how the demand for an increase in the minimum bonus came to be pressed, since this is an important part of the background to our enquiry and forms part of the evolution of the system and concept of bonus in the country. It was urged that as a result of the actual working of the provisions of the Payment of Bonus Act the available surplus in a large number of concerns was either meagre or a minus quantity and that after 1965 many concerns especially those which were labour-intensive had not been able to give more than 4 per cent of minimum bonus. Having regard to the order of rise in prices as reflected in the consumer price index numbers, the feeling grew among employees that the 4 per cent minimum bonus, though paid on basic wages plus D.A., had proved too inadequate. Widespread agitation started in the year 1970 and became more pronounced in 1971 for an increase in bonus due for the years 1969 and 1970 respectively, and the demand was for raising the minimum bonus of 4 per cent to 8½ per cent. A private member's bill No. XII of 1966, introduced by Shri Chitta Basu in the Rajya Sabha on the 19th August 1966 called for an increase in the minimum bonus. The bill was withdrawn when an assurance was given on behalf of the Government of India by the Labour Minister that the Government were thinking of bringing forward legislation for amending the Payment of Bonus Act. The Labour Minister who addressed the meeting of the Bombay Textile Workers in September 1970 which was held under the auspices of the Rashtriya Mill Mazdoor Sangh reportedly said that the Government would shortly take a decision on the issue of payment of higher bonus to workers. Following this the Millowners' Association in Coimbatore agreed with the representative union to pay minimum bonus of 8½ per cent for the accounting year 1969-70 and 1970-71. In certain cases the bonus above the minimum of 4 per cent was considered as advance to make up the 8½ per cent stating that the parties shall strive to reach a settlement in respect of advances paid in excess and failing such agreement the sum in excess of the bonus liability would be recovered in 12 monthly instalments. The then Union Minister in charge of West Bengal announced a minimum bonus of 8 per cent to the workers of Jessop & Co. Ltd., Calcutta, a Government of India Undertaking for the year 1970.

2.17 In March 1971 the Union Labour Minister stated in the Rajya Sabha that the Government proposed to bring suitable legislation in due course to include non-competitive public sector undertakings

within the purview of the Payment of Bonus Act. Similarly an announcement was made in July 1971 in the Lok Sabha that the entire public sector would be brought under the purview of the Bonus Act. The subject of minimum bonus was also discussed in August 1971 in the State Labour Ministers' Conference and in September 1971 representatives of INTUC, HMS & AITUC held a meeting in Delhi in which a unanimous demand was made to increase the minimum bonus to 8½ per cent for all workers in private and public sectors, including the departmentally-run undertakings, and to call upon the Government to promulgate an ordinance for enhancing the minimum bonus.

2.18 The agitation for an increase of the minimum bonus from 4 per cent to 8½ per cent continued. In September 1971, the Union Minister convened a bipartite conference to consider the question of minimum bonus. The Conference having failed to arrive at any outcome, an informal agreement was subsequently reached between the employers, the INTUC and the Labour Minister in September 1971, on the basis of an *ad hoc* formula (otherwise known as Khadilkar formula) which prescribed the payment of bonus as follows :

- (a) Units which do not make enough gross profits to cover normal statutory depreciation will make a payment of 1 per cent of the total annual emoluments in addition to the present statutory minimum of 4 per cent.
- (b) Units whose gross profits show a surplus of 1 per cent of total annual emoluments after charging normal statutory depreciation, will make a payment of 2 per cent over and above the minimum 4 per cent.
- (c) Units whose gross profits show a surplus of 2 per cent of total emoluments after charging normal statutory depreciation will make a payment of extra 4½ per cent. The difference between the amount payable under the Act and the actual amount paid under this *ad hoc* formula will be treated as advance to be suitably adjusted against future payments under a new bonus formula that may be evolved in pursuance of the contemplated review of the working of the Act. (*Vide* Chapter II, Paragraph 2.5 of both the Interim Reports).

2.19 While adopting the formula, it was also agreed that a Committee consisting of representatives of the employees and employers and economists with an independent Chairman would be set up immediately to go into the entire scheme of bonus including the minimum and maximum bonus. Consequently the present Committee was appointed in April 1972 as indicated in Chapter I. (*Vide* Chapter II, Paragraph 2.6 of both the Interim Reports).

2.20 We have referred in Chapter I to the interim enquiry of the Committee on the question of minimum bonus and Government's decision to increase the minimum bonus from 4 per cent to 8½ per cent. In relation to the evolution of the system of bonus and the concept underlying it, which forms the subject matter of this chapter, it remains for us only to reiterate that, over the years, bonus has come to be an amalgam of its normal character as profit-sharing, taken in its framework of the 'set on' and

'set off' arrangements, and an equivalent of an annual wage in certain concerns while they sustain losses or make only nominal profits. The issue which this background to the enquiry raises is whether the character of bonus as it has thus evolved should remain substantially unaltered or it should be modified in any material way and if so in what manner. Our answer is that the basic character and concept of bonus should remain essentially the same, as we stated in the interim reports.



## CHAPTER III

### PROFIT-SHARING AND OTHER BONUS SYSTEMS IN FOREIGN COUNTRIES

The future development of the system of bonus such as is now embodied in the Payment of Bonus Act hinges importantly on any suitable adaptations therein which might be suggested in the light of the experience of working of this legislation in the country, and the actual conditions as well as the emerging situation here. It may nevertheless be useful, as a background to a consideration of our problem, to review the prevalent systems of bonus of general and wide coverage in other countries similar to our system and to note any special features disclosed by them which might be of interest to us in reviewing our system.

3.2 This chapter seeks to present an outline of the systems of bonus or its equivalent in various countries such as could be gleaned from the material made available to the Committee at the request of the Chairman by official agencies (e.g., Governments and Central Banks) or otherwise gathered from published sources. This account pertains to schemes of extra or supplementary remuneration of employees, either on a basis of sharing of profits, or on a basis of periodic or annual payments over and above the regular wages and without direct relationship to or measurement of profits, which are to be found in some other countries. A review of variants of systems of payments by results or incentive wage or bonus schemes under which part or all of the pay is related directly to the output of individual workers or groups of workers, is, however, not included here, as these stand on a different footing from a generalised system of bonus of broad applicability such as is contained in our present Bonus Act. Our terms of reference do require us to consider relating our system of bonus to changes in production/productivity of concerns, but schemes of varying remuneration with the contribution to output of an employee obtain chiefly in systems of payment of wages which have greater frequency and where the relationship between contribution and reward is more easily measured and therefore, is more evident than in systems of annual bonus payments.

#### **United States of America**

3.3 In the U.S.A., the concept of bonus does not have the statutory or institutional base that exists in India. However, the American wage structure is oriented toward, and embodies, various types of incentives sometimes in the form of profit-sharing and termed bonuses. Bonus payment practices in U.S.A. are many and varied, e.g., festival bonus, company bonuses for personnel leaving to join military service,

incentive bonus plans for management staff, supervisors and salesmen linked to profits or of other types, etc., over and above schemes of payment by results.

3.4 Profit-sharing is sometimes referred to loosely to include all forms of bonus payments, commissions, benefit and retirement schemes and stock ownership plans for employees, since all these encroach upon business profits. However, ever since the International Conference on Business Profits held in Paris in 1889, the description of 'profit-sharing' has been specifically understood as applying to schemes where the proportion of the profits of a business to be distributed is fixed in advance or where, as the U.S. internal revenue authorities (and the British Ministry of Labour and National Service) stipulate, substantial and recurring contributions which broadly fluctuate in accordance with the level of profits are made to plans or purposes for the benefit of employees.

3.5 The profit-sharing plans in the U.S.A. are broadly classified as "current" or "cash" and "deferred" plans, though a combination of the two forms is also employed. The cash plan provides for payment in cash—annually, semi annually or oftener—to employees, all or of specified categories, of a share of the profits. The deferred plan establishes a trust fund to provide employees with future benefits, at retirement, or on death, or disability or termination of employment, often with facilities of loan or withdrawal for immediate financial assistance in event of unusual need. Many deferred plans provide for creating "employees stockholders" through investment in own company stock.

3.6 Deferred plans enjoy tax advantages provided the payments are limited to a proportion of the participant's annual pay. Under cash plans firms often make payments considerably in excess of such a proportion stipulated for deferred plans—and usually higher than under deferred distribution schemes—but these are usually not deductible before tax.

3.7 In regard to the items to be deducted from gross profit in arriving at the net profit to be shared, in terms of the more common practice in the U.S.A., stockholders appear to have the prior claim to the profits, though the methods for computing the return on capital investment seem to vary greatly. A U.S.A. survey found that about two-thirds of all such schemes stipulated a proportion of profits to be set aside for shareholders before the employees' share was computed; this proportion was variously

expressed as a ratio of net worth, shareholders' equity, invested capital or, in some cases, gross sales. Other schemes provided for the deduction of a fixed amount of money, either per share or as a blanket amount to cover dividend requirements; in a few cases the amount set aside was "a sum sufficient to cover dividend requirements".

3.8 However, in the U.S. all variants of the profits to be shared are used in agreements, and the share may be of profits—(a) before taxes (usually in "deferred" plans) or any other reservations, (b) after taxes, but before reservations, (c) before taxes but after reservations such as dividends, return on net worth or percentage of sales, (d) after taxes and after reservations as in (c) above, (e) any of the above, but only if a minimum profit is made.

3.9 As regards the methods of distributing the employees' share of profits among individuals, the basis adopted for determining benefits is the ratio of employees' earnings, but these may be either base (or basic) earnings or total earnings, including over-time and other extraneous payments, the problem being viewed as one of the appropriate method of distribution of a given total among participant employees. Length of service is sometimes a factor in computation of the amount of benefit, which may also vary with the category and rank of employee.

3.10 As regards the distribution of profit-sharing programmes in America among various types viz., cash, deferred or combination, a study made by Dun and Bradstreet as of mid-1962 considerably revised the ideas which had been current till then about the relative numbers of different plans. The study brought out that cash plans were popular in small companies relatively to deferred plans which were preferred by larger companies, with presumably more highly remunerated employees. There had, however, on the whole, been a tendency over time toward increase in the relative importance of deferred as against cash plans. Deferred profit-sharing owed its inspiration and original impetus to the German economist, J. H. Von Thunen (1783—1851) who propagated broadening the base of private property ownership through this means.

3.11 A representative survey published by the National Industrial Conference Board bears on the prevalence of extra compensation (bonus) plans for management, professional-technical and sales personnel in manufacturing. Its results (as of 1965) were based on information obtained from 405 out of 618 manufacturing companies (66%) listed on the New York Stock Exchange. Of the 405 companies, 266 (66%) had bonus plans applying to some or all of their management personnel. Usually the plans covered a higher proportion of the higher grade of officer. Also, for higher levels of management, case-by-case decisions were more common while a predetermined formula was more usual for the lower management levels, for which the usual linkage of bonus funds to company profits also diminished.

3.12 In view of the association of bonus with festival time, it is of particular interest to note the prevalence of Christmas bonus for employees in the United States. Apparently as hardy as an evergreen, the Christmas bonus abides as an identifiable company contribution to a happy holiday. Studies revealed that between 1954 and 1965, the prevalence of Christmas bonus remained much the same. Banks particularly have carried on the tradition. Almost 60% of 134 banks surveyed by the national industrial Conference Board (1965) gave a Christmas bonus. Similarly, a sizable minority (approximately one-third) of the manufacturers, trade firms; and insurance companies, as well as 15% of the utilities, surveyed gave a bonus. In each of these types of businesses, however, the smaller companies were the most likely to extend season's greetings with a check. This reflects the more personal relationship between management and employee in a smaller company.

3.13 In about 40% of the Christmas bonus plans analysed (2335) all employees received a specific dollar amount, regardless of salary, typically 50 dollars but often higher in the other 60%, all employees received a specified percentage of salary, typically two week's salary, but often up to four weeks or even more. The Christmas bonus was also found to be more common among non-union companies than among companies that were highly unionised, in which the bonus was often absorbed in base pay at union instance.

3.14 Several recent studies in the United States are focussed upon the results in terms of over-all improvement of company performance of various types of incentive bonus plans or payments by results. These and other behavioural science researches have tended to cast doubts on the extent of efficacy of direct financial incentives for extra effort and extra results, and have underlined the potent role of the sources of non-financial motivation, including adequate personnel management and development policies as well as appropriate salary administration.

#### Canada

3.15 In Canada no legislation exists for payment of bonus either in the private or public sector. Where bonus plans do exist, they have been designed to meet the peculiarities of the individual companies and it is difficult to make any meaningful generalisations about them. An annual survey of working conditions in Canadian industry conducted by the Department of Labour in 1969 included a question on bonus of any type, such as a year-end or Christmas bonus. The results indicate that 17 per cent of all employees are in establishments where bonuses are (or may be) paid but in most cases (14% of employees) the bonus is entirely at the discretion of management and often is restricted to certain groups of employees. In addition, the 1969 survey asked each employer whether there was "a practice by which any employees receive a share of the net profits of the company." It was

found that such plans existed in companies which accounted for only 8 per cent of the industrial employees. Furthermore, in about half of the instances where profit-sharing was practised it applied to only a limited number of employees such as professionals or managerial classes. It can thus be seen that bonuses and profit-sharing are relatively minor practices in Canadian industry.

### United Kingdom

3.16 In the United Kingdom, there is no national system of bonus payments comparable to the provisions of our Payment of Bonus Act. Also, relatively few individual enterprises pay a bonus of a given percentage of wages or salaries to all employees. However, there is a large number of individual incentive schemes in operation which offer bonuses or additional payments in some form. These range from payments by results systems to share option or share incentive schemes for senior management where practice varies widely not only between different industries and different firms in the same industry, but also between different groups of workers in the same company. On the whole, the available experience of working of profit-sharing schemes in the United Kingdom which has more application to the problems in India at this stage is comparatively small.

### France

3.17 In France, it may be said that bonus payment in the private sector is regulated, like the other elements of remuneration of workers, generally by collective bargaining between representative organisations of the employers on the one hand and trade union organisations of workers on the other. Also the provisions in this respect are extremely varied, and differ according to the nature, activity and size of establishment as well as the category of personnel.

3.18 On the other hand, in France now profit-sharing bonus payments in the private sector are regulated by the ordinance of 17th August, 1967 which has instituted the "participation" of the wage earners in the profits of the expansion of the enterprise" the system is obligatory for all enterprises employing more than 100 workers and optional for others. This regulation is also applicable to all banks whether nationalised or not.

3.19 In terms of the 1967 regulation, a "special reserve of participation" (S.R.P.) is formed each year by setting aside a portion of the profits as rights allotted to the workers. This is calculated according to the following formula :—

### Special reserve of participation or S.R.P.

$$= \frac{1}{2} \left( \frac{B - .5C}{100} \right) \times \frac{(S)}{VA}$$

B = net profit

C = own capitals of the enterprise

S = Amount of Salaries

VA = value added

The successive operations in the calculation of the workers' reserve or rights of participation are: take the net profits of the year; from this taxable profit deduct the tax and then the remuneration of the own capitals of the enterprise (including reserves, balance, taxed provisions etc.) at the rate of 5 per cent (equivalent to 10 per cent before tax, since tax is 50 per cent); to the result, apply the ratio of the salaries/wages total to the value added\* of the enterprise, "in order to calculate the part of labour in the activity of the enterprise ; divide the number thus obtained by two, and that constitutes the special reserve of participation.

3.20 The special feature of the French system of profit-sharing (which has some similarities to the Indian formula which also highlight the important dissimilarities of the two systems) is the use of a coefficient (the relation between the amount paid out in wages and salaries and the firm's added value) so as not to give an unfair advantage to those working in concerns that are highly mechanised or automated, where a small number of workers operating very expensive machinery manufacture an enormous quantity of products.

3.21 Apportionment among employees of the workers' reserve is calculated in proportion to the wage or salary earned by each worker who has been employed for at least three months in the enterprise, within the limit of a twofold ceiling. On the one hand, the monthly pay figure taken into consideration in calculating the distribution of the reserve is limited to 4,560 F. (equal to four times the ceiling of social security); on the other the amount distributed to any one person may not exceed 6,840 F. a year (equal to one-half of the ceiling of social security). It follows that senior management personnel will not thereby benefit in proportion to their earnings.

3.22 The ways in which the reserve is to be used are to be decided by collective conventions or by agreements concluded with the most representative trade union organisations, or alternatively with the joint production committee. Various possibilities are open :

- (i) allotment of shares or denominations (fractions) of shares of the enterprise;
- (ii) allotment of debentures or payment in blocked current account;
- (iii) payment to investment organisations unconnected with the enterprise; and
- (iv) payment to a savings plan of the enterprise.

\*Value added is calculable from the annual statement of accounts as comprising financial expenses, expenses of personnel, imposts and taxes, amortisation, provisions and profits.

In the absence of agreement, the second system is to be applied.

3.23 But under any alternative the funds are blocked; those holding them may negotiate their securities or receive payment for the moneys due only at the end of a five-year period. This period is extended to eight years if there has been no agreement. On the other hand, withdrawal in advance is possible in exceptional cases: death of the worker or of the husband or wife, disability, serious illness, dismissal or marriage.

3.24 The sums paid into the special reserve are exempt from the tax on profits. Since the rate of the later is 50 per cent, the firm will save on taxation one-half of what it pays into the reserve. Furthermore, firms will be able to make tax-free provision for investments, the amount of such provision being equal to the participation reserve. They will thus make a second tax-saving of 50 per cent of the amount of that reserve. This means that, finally their payment into the participation reserve will be offset by this twofold tax relief.

3.25 Thus in France for the first time, worker participation in the fruits of expansion is recognised as a right, since the system is now compulsory for firms of the size defined by the ordinance. The sums allotted to the workers represent the share of wage-and salary-earners in capital formation within the firm. The workers thus participate in the development of saving as well as increase of the capacities of investment of enterprises. This is why a lock-up period of five years is stipulated except in specified instances for the funds apportioned to the workers' reserve and fiscal concessions are conditional upon this requirement being fulfilled.

3.26 The head of the firm and the employees must agree together on the nature and method of management and the administration of the rights established by the ordinance.

3.27 In France, the Government employees are not admitted to the system of participation in profits and also do not collect any bonus of results.

#### Federal Republic of Germany

3.28 With the exception only of the Postal and Railway services which are in the public sector, the German economy is almost entirely a private sector economy. The remuneration and condition of service of workers are determined by negotiated agreements between the respective trade unions and associations of employers. A major innovation of the last decade in West Germany, however, has been the payment of a 13th monthly salary per annum. It has become a generally accepted practice and integral part in nearly all branches of the German private economy, though the claim to this benefit is based exclusively

on the respective agreements between the organisations of labour and employers. A 13th month salary or any other negotiated regular benefit is, however, not called a bonus in Germany.

3.29 A bonus in Germany is one which is determined solely by the employers according to their assessment of the profit situation of a company. As such bonus in one form or another had existed in the past for managerial personnel, whose extra efforts and personal drive could be said to play such a major role in economic success. Recently, however, this practice has been extended in Germany to the whole staff of a company, though at present such extension is known to have occurred only in a limited number of companies.

3.30 Moreover, a bonus will not be of the same percentage of wages/salaries for all employees in the company. It is usually higher for a company director, say, 12 per cent, in a good year, and lower for executives, say, 8 per cent, and least for the rest—2 or 3 per cent.

3.31 Finally, in Government agencies, e.g., municipal boards or other public services which cannot make genuine business profits, bonus, by the very nature of their activity, is unknown and inapplicable in Germany.

#### Netherlands

3.32 There is no legislation in Netherlands on the grant of bonus to employees. However, as far as enterprises are concerned, bonus plans, if any, may be based either on collective labour agreements or separate agreements between employers and employees of the concerned enterprises. Bonus is paid in the form of profit-sharing bonus (dependent upon annual profits) or 13th month bonus (additional payment of one month wages/salaries irrespective of profits) or end-of-year bonus (irrespective of profits). The bonus often amounts to a fixed percentage of the individual's annual pay. However, the percentage may vary according to the group of employees. In other cases, it may be a fixed amount paid equally to all employees regardless of their salary/wages or group.

#### Belgium

3.33 There is no legislation in Belgium for the participation of workers in profits. Some companies provide in their articles for the personnel to participate in profits at stated percentage or allow for such rates of profit-sharing to be fixed by shareholders. This practice is not, however, wide-spread. On the other hand, there is a widely prevalent practice of an annual bonus being awarded to the personnel bearing very different nomenclatures : bonus—13th month allowance—premium for productiveness etc. Generally, this premium is considered as a bonus having a character of acquired right which, in most cases, varies with salary, seniority and assiduity or merit. Each enterprise regulates this distribution

freely. The amount of such bonus also differs from one company to another, but all the same reflects the performance of the personnel of the enterprises for receiving a relatively fixed amount at the end of the year, which is not assured through participation in profits.

3.34 The principle of profit being foreign to the budgetary management of the State, the question of participation in profits by its personnel does not arise. However, in the "social programms" concluded between the trade union organisations and the public authorities, and which regulate the remuneration of the Government employees, it is visualized that a bonus of programming is granted generally during the course of the month of December. For 1972 and 1973, this bonus will rise to 3,000 F, increased by 2.4 per cent of the annual salary not indexed.

#### **Italy**

3.35 In Italy there is no legal provision for the payment of bonus but some collective contracts of labour provide for such payments.

#### **Scandinavian Countries**

3.36 The position of profit-sharing in Denmark is as follows. In 1957, the Danish Parliament passed the Profit-sharing Act which was renewed without change in 1961. The Act encourages the undertakings to introduce profit-sharing on a voluntary basis, e.g. in the form of social funds, viz., pre-arranged or discretionary transfers of part of the profit of an undertaking for establishment of funds serving to improve the conditions of employees of their relations. The Act provides for the appointment of a Profit-Sharing Board with a view to promoting the introduction of profit-sharing schemes and establishment of social funds. The Profit-Sharing schemes are to ensure that no category of employee is discriminated for or against except for reasons of remuneration, seniority, marital status and family responsibilities.

3.37 A few firms have introduced profit-sharing on the basis of amounts paid out individually and in cash after the yearly closing of accounts. Payments of an extra week's pay at Christmas time and after-account time is not quite uncommon. More used in the somewhat bigger firms (at least 50 of them) is the establishment of social funds for use in case of illness, after retirement, during vacations, or for taking part in courses, seminars, etc.

3.38 Tax concessions and facilities are extended to profit-sharing in the form of bonds and shares given to workers without payment from their side within a limit for each employee of 200 Danish Kr. for new shares as well as for right share at low rates. These facilities for issue of employee stocks have, however, not been widely used.

3.39 There are no particulars about actual profit-sharing in Government institutions. An experiment in profit-sharing was carried out in the years from 1903-1915 within the Danish State Railway, but this arrangement was abandoned as it met with resistance from other government employees and also from the public, because at the same time the railway fares in general were to be increased.

3.40 In 1973 the Danish Government has introduced a bill aiming at an extensive form of economic democracy simultaneously through right of co-ownership of employees and co-determination in joint-stock companies, in consequence of assuring the employees a reasonable share of the capital growth in Danish society. In terms of the bill, all employers—private as well as public—will pay every year a percentage of their total sum of wages and salaries to "The Employees Investment and Dividend Fund". The contribution is proposed to be fixed at  $\frac{1}{2}$  per cent in 1974 and to be increased by  $\frac{1}{2}$  per cent a year (viz., to 1 per cent and so on) until 1983 after which the annual contribution will be 5 per cent. The contributions are to be applied to the financing of investments and shall as far as possible be placed as active and risk capital "..... an investigation will furthermore, be carried out at to the possibilities of supplementing the contributions or of replacing part of them by a part of the undertakings' profits"; this implies that, as it is, the contributions are debitable to costs and not to be appropriated from profit.

3.41 The system will include all employees in the age group between 18 and 66 years, who will receive fund certificates as a token of their personal ownership of the proportional share of the Fund's resources. The size of the certificates will be independent of the wage or salary of the individual employed, but those employed for more than 32 weeks will get equal shares, while employees employed for 16-32 weeks will get certificates for half a share. The certificates cannot be negotiated or borrowed on, but could be drawn upon after 7 years or in the event of death or retirement. Freedom from taxation is provided for both contributions to the Fund and for the proceeds of Fund certificates.

3.42 Among instructions for the placing of the capital in the bill are the following :

- (1) In joint stock companies with more than 50 employees  $\frac{2}{3}$  of the contribution shall remain as share capital in the undertaking.
- (2) Joint stock companies with 20-50 employees may also leave the same proportion of contribution as share capital, if they conform to rules for the employees' participation in management corresponding to those applied to the larger companies.
- (3) Other private undertakings with more than 10 employees and on certain additional conditions also commercial undertakings of the State or of the municipality may let  $\frac{2}{3}$  of the contribution remain as loan.

3.43 The management of the fund : The fund will be managed by a council of 60 members of whom 36 are appointed by the employee organisations, and 24 by the Minister of Labour. The employee representatives elect 6 members and the representatives appointed by the Minister of Labour elect 4 members to the Fund's board.

3.44 In the other Scandinavian countries, in Norway, Sweden and Finland, there is nothing equivalent to our bonus system, profit-sharing as such being practically non-existent. There is, however, widespread recourse to systems of payments by results in Norway as well as in Sweden in the form of piece rate and other schemes of remuneration of labour equivalent to bonus on production and productivity.

#### **U.S.S.R.**

3.45 Regulations of payment of bonus to employees of State savings banks in the U.S.S.R. were introduced to increase material incentive in fulfilment and over-fulfilment of cash plan and plans of attraction of personal funds into deposits and state loans. Thus employees of savings banks are given a bonus to the extent of 20 per cent of a monthly salary for fulfilment of a quarter plan of attraction of personal funds into deposits and for selling bonds of State 3 per cent internal loan. Besides, they are given bonus at the rate of no more than 0.6 per cent of a monthly salary if the showing of a year as to the attraction of personal funds into deposits and selling of State 3 per cent internal loan bonds is better than in the previous year. The total amount of bonuses for a banking branch or agency for such kind of bonuses is up to 2 per cent of the excess amount. Payment of bonus to all managers, specialists and office workers is effected, as a rule, at the same rate. However, managers of the savings banks subject to agreeing with a trade union committee and depending on the quality of the work and a worker's contribution to the work may increase or decrease the size of his bonus, but no more than by 25 per cent. The amount of bonus paid to one worker according to the regulations should not exceed 0.25 per cent of salary per month.

#### **Czechoslovakia**

3.46 In the Czechoslovak Socialist Republic employees of the socialist economic organisations take material interest in the results of economic activities attained by an organisation by profit-sharing. Shares in profits by the organisations are determined on the basis of economic results evaluated for the past year. It is possible to get during the year an advance payment on the shares in profits ascertained for the whole year, but such a payment can be made only after the evaluation of economic results for the three quarters has been made.

3.47 Shares in profits can be given to all employees of an organisation with the exception of some leading economic workers. The amount of shares in profits is being fixed differently for individual employees, according to the degree of their responsibility, individual results achieved in work, work discipline, the length of employment in an organisation, and other criteria expressing the merits for the results achieved. Detailed conditions for profit-sharing are embodied in collective agreements concluded between a team of workers and organisations.

3.48 The amount of profit-sharing makes at present some 4 per cent of the annual average wage of a worker ; there is a tendency gradually to increase the share of this wages component in the total average wage.

3.49 Economic executives are materially interested in the complex results of economic activities and in the management of an organisation, i.e.,

- (a) in the fulfilment of quantitative and qualitative tasks resulting from national economy plans,
- (b) in a long-term technical and economic development of the organisation involved,
- (c) in the increase of production effectiveness/services,
- (d) in other results of managerial activity.

On the basis of a complex evaluation of the annual economic results and of the managerial activity the executives can be given an annual bonus up to 40 per cent and those working in mining, uranium, ore mining and magnesite industries an annual bonus up to 50 per cent of their annual basic salaries. In case they do not fulfil important tasks relating in particular to economic plans, if they violate legal regulations or if negative results in the evaluation of their managerial activities have been ascertained, annual bonuses are either not granted or substantially reduced, depending on the rate of the shortcomings. If an executive helps by his own initiative to attain very favourable economic results or if he secures some extra tasks the fulfilment of which is of great significance from the viewpoint of the whole society, his superior officer/body may increase his annual bonus by 10 per cent of the annual basic salary. The annual bonus of the executive also includes his share in profits by the organisation involved.

3.50 In recognition and evaluation of the merits gained by the employees during their long work for the development of a socialist society, virtually all the employees may receive bonuses if they have been working in an organisation for 25 years, if they have reached the anniversary of 50 years of age, or before their retirement. These bonuses can be granted to employees up to amount of Kcs. 2,500. The amount of a bonus is fixed in a differentiated way, this depending on the rate of merits of the employee involved and on how long he has been employed in an organisation.

3.51 Shares in profits, annual bonuses to economic executives and regards in case of some important work and life anniversaries are paid from the remuneration fund which is created by allocations from profit. The maximum amount of allocations to the remuneration fund is fixed by a limit/norms. The limit of the remuneration fund determines the share of the resources in profit regulated by the development of wages costs, or according to the development of performances. Besides the financial means within the limit it is possible to allocate further resources to the remuneration fund, i.e. up to the amount of the annual savings of wages costs and other personal expenses, other specific allocations by the superior bodies, and/or allocations from the State Budget.

3.52 The balance of the remuneration fund that was not spent in a year is carried over to the next year.

Control over the allocations from profit into the remuneration fund and over the fulfilment is exercised by the State Bank of Czechoslovakia.

3.53 In addition to the shares in profits and to bonuses in case of some important work and life anniversaries the employees of economic organisations may receive other kinds of bonuses, depending on quantitative and qualitative results achieved in work for the tasks fulfilled in production, in the reduction of costs, in the development of sciences and techniques, in capital construction, for the savings in material, power, etc. Further there exist various kinds of efficiency bonuses, extra bonuses for fulfilment of some important tasks, for the results achieved in the socialist emulation etc.

3.54 These bonuses and rewards form part of the wages for individual work results and are paid to the debit of costs; only bonuses in the socialist emulation are paid from the remuneration fund. At present the share of bonuses and rewards covered from costs amounts to some 15 per cent of the annual average wage of an employee.

### German Democratic Republic

3.55 In Act (No. 2) to amend and supplement the Labour Code of the German Democratic Republic, dated 23rd November, 1966, the following provisions as regards Wages and Bonuses are to be found :

(1) Wages and bonuses shall be designed to ensure that workers accept and fulfil major tasks under the plan. The wage and bonus structure shall be such as to further the progress of the scientific and technical revolution, and especially to promote rationalisation projects and workers' further training programmes, and to encourage the most appropriate use of manpower in the interests of the national economy. An effort shall be made to foster the development of

socialist consciousness among the workers and to encourage socialist collective work by a close combination of material and psychological incentives.

- (2) A person's work and wages shall be governed by the basic socialist principle: 'From each according to his abilities, to each according to his output'. Wages shall be fixed in accordance with the economic law that any distribution of benefits should be based on output. Wages are the main type of material incentive for the individual worker and are his most important source of income. The wage rate shall be determined by the skills required for the job, the complexity of the tasks to be performed, the extent to which output standards and other variable output indices are achieved and the number of hours spent at work.
- (3) Bonuses shall be awarded in addition to wages in recognition of satisfactory economic results achieved by the establishment, due allowance being made for the part played in achieving such results by each individual or group of workers, and also in recognition of outstanding individual performances.
- (4) Improved wages and bonuses shall depend on increased productivity and greater efficiency at work.

3.56 On the subject of payment of bonus, the following provisions indicate the purpose behind it and that it is conditioned on achievement of the tasks set in the State Plan :

- (1) The basic purpose of establishing a bonus fund is to enable plans with ambitious objectives corresponding to the requirements of society to be prepared and implemented.
- (2) The moneys held in the bonus fund, and especially those corresponding to the year-end bonus, shall be used in such a way, notably in connection with the socialist competition scheme, as to provide an incentive for the workers to achieve a high standard of individual output and, by collective work, a high standard of performance for the establishment as a whole.
- (3) Criteria for the payment of bonuses shall be determined on the basis of the tasks set in the State Plan and the way such tasks have been allocated to the different groups of workers and shall be directly influenced and capable of assessment by the workers.
- (4) Conditions for the grant of bonuses shall be prepared in collaboration with the workers and set down in the works collective agreement.
- (5) Bonuses shall require the approval of the appropriate trade union committee in the establishment.

(6) Workers who develop reserves for use in the national economy, save raw or other materials, improve occupational health and safety or perform other special services may be granted bonuses in accordance with the relevant legislation.

### Japan

3.57 In Japan, there is no legislation concerning the payment of bonuses and the amount, period and other details on paying bonuses are decided freely by each enterprise through labour management negotiations, etc. It is, however, the general practice that bonuses are paid twice a year (in June or July, and in December) in an amount calculated by a certain bonus rate against the regular monthly salaries or wages. The bonus rates are determined in consideration of each employee's work performance, contribution to the enterprise etc.

3.58 Although methods of paying bonuses vary according to each enterprise, and the concept and nature of bonuses have been changing reflecting the changes in the social and economic situation, there are four theories regarding the nature of bonuses in general :

- (a) Custom theory: The practice of paying bonuses has been influenced by the traditional Japanese practice of receiving special remuneration in July and at the year end when house-keeping expenditures increase;
- (b) Deferred payment of salary theory : Payment of the regular monthly salary is made less than the due amount, and the suspended amount is subsequently paid are bonuses;
- (c) Reward theory : The bonus is a reward for merit and service which employees have contributed to favourable business results during a term ;
- (d) Profit distribution theory : Bonuses are paid to distribute an enterprise's profit during a term.

Among these theories, (a) is supported by both management and labour, (b) is backed by labour, and (c) and (d) are chiefly stressed by management.

3.59 The rate of the total annual amount of bonus to the amount of regular monthly salary varies from company to company, but roughly speaking, the rate is 3 to 6 months' salary, though it may exceed the higher of these rates. It is quite rare, though, that the total annual bonus exceeds the total annual amount of regular salary.

3.60 In the case of public servants, in Japan the bonus is paid on two different bases; one is a term-end allowance paid in March, June and December, and the other is an assiduity allowance paid in June and December. Of these two the term end allowance

is calculated at the same rate for every official, but the assiduity allowance is decided in accordance with each official's work performance.

### Iran

3.61 In Iran as per the Legislative Decree dated 7th January, 1963 there are provisions for (1) concluding a collective agreement in every undertaking regarding bonuses, and (2) establishing a profit-sharing scheme and Profit-Sharing Committee to administer the same.

3.62 The Collective Agreement may provide for the grant of output bonuses or bonuses based on savings in over-head expenses or diminished losses and also bonuses for the participation of the workers in the net profits of the undertaking or similar arrangement, or combination of some or all of these measures, whereby the workers's earnings will be increased. The sharing in profits shall not exceed 20 per cent of the profits.

3.63 In every undertaking where a profit-sharing scheme is instituted, a committee being a body corporate consisting of a representative each of workers from the undertaking, Ministry of Labour and Social Affairs, Ministry of Finance, Ministry of Industry and Mining and the employer, is constituted to determine the value of the share to be distributed among the workers. The worker's share shall be distributed among them in accordance with the following scales:

#### SCALE 1

	Length of service	Coefficient
One full year	.	1
From 1 to 5 full years	.	3
From 5 to 10 full years	.	4
Over 10 years	.	5

#### SCALE 2

	Wages	Coefficient
Up to 35 rials	.	1
From 35 to 60 rials	.	3
From 60 to 80 rials	.	4
Over 80 rials	.	5

3.64 The coefficient for each worker shall be obtained by adding together the two coefficients for his length of service and wages. Each worker's share shall be determined by dividing the total amount credited by the employer for the purposes of the scheme by aggregate of all the individual workers' coefficients, and by multiplying the figure so obtained by the personal coefficient of the worker concerned.

### Chile

3.65 In Chile, in terms of the administrative regulations under the Labour Code there are special provisions regarding profit-sharing, the main features of which are summarised below:

- (1) Each undertaking shall be bound to pay to the works union the amount of the share of

profits to which it is entitled, in advance, on the basis of the balance sheet or audited accounts submitted by the undertaking at the same time to the Commissioner of Taxes, who shall assess the amount payable. After the set amount has been assessed by the Commissioner of Taxes the undertaking shall pay within the 30 days, following a notice to pay served by the inspectorate of Labour, to the union any difference which may be outstanding.

- (2) One-half of the share in profits corresponding to 10 per cent of the net profits or 6 per cent of all wages paid shall be distributed directly by the undertaking in the same way as the wages of the staff in proportion to the said wages and the number of days actually worked, between the workers who completed at least 70 per cent of the working days or days actually worked in the undertaking during the period in respect of which the profits are shared.
- (3) The amount to be shared shall be divided into two equal parts: the first shall be distributed *pro rata* in proportion to the wages, and the second *pro rata* in proportion to the number of days worked. In the case of workers engaged in piece work or task work or work paid on a lump-sum basis, the average daily wage bill shall be first assessed for the purpose of ascertaining the daily wage rate.

#### Peru

3.66 In Peru, under a Legislative Decree, to promulgate the Industries Act, there are provisions for Workers' Profit-Sharing, as follows :

(1) Every industrial undertaking shall deduct each year 10 per cent of its net income, to be distributed among all the workers effectively working full time in the undertaking.

- (i) Fifty per cent of the amount so deducted shall be distributed *pro rata* among all the workers.
- (ii) The remaining 50 per cent shall be distributed in proportion to the individual basic pay of each worker, according to the pay roll.

(2) All workers employed full time in an industrial undertaking shall enjoy the benefits deriving from progressive participation of the "industrial community" in the assets of the undertaking, subject to an upper limit of 50 per cent thereof. The "industrial community" is a corporate body having legal personality in an industrial undertaking, as the entity representing the entire body of workers employed full time in such undertaking, the object of which shall be the administration of any property acquired under this Legislative Decree for the benefit of such body of workers.

(3) The assets of the industrial community shall be progressively built up by deducting each accounting period 15 per cent of the net income of the industrial undertaking, which sum, free of income-tax, shall be reinvested in the same undertaking.

3.67 The assets of the industrial community shall be increased by the reinvestment by the undertaking of the net income or yield corresponding to the capital already owned by the industrial community in the undertaking. When the target of 50 per cent of the registered capital of the undertaking is reached, the workers shall own individually the shares in such 50 per cent, subject to the industrial cooperative principles laid down in the Legislative Decree respecting the industrial community, and the industrial community shall continue to exist within the undertaking.

#### Ecuador

3.68 Under the Labour Code of June 7, 1971 there is a provision as follows in connection with the profit-sharing: Every undertaking and employer shall devote 15 per cent of the profits of the undertaking or establishment to the benefit of their employees. Ten percent shall be paid to the employees themselves, each one receiving a share proportionate to his total earnings during the year in question, and the remaining 5 per cent shall be paid to the majority association of the employees of the undertaking for distribution exclusively to the employees, whether members of the association or not, who are fathers of families and maintain and care for children under 18 years of age, in proportion to the numbers of these. If there is no such association an amount equal to 5 per cent of the profits shall be deposited in a bank with a view to distribution as above.

The profit-sharing scheme also covers the contract labour as also the casual labour but not apprentices.

3.69 Determination of the annual profits of undertakings shall be based on their income-tax returns or payments. The Minister of Finance, on request by the Director-General or Sub-Director of Labour or by the organisations of employees of the undertakings concerned, may order such investigations and inspections as he thinks fit with a view to evaluating the effective profits. The employees' organisation concerned in a particular instance shall appoint a representative to examine the accounts.

#### Mexico

3.70 In Mexico, under the Federal Labour Act dated 2nd December, 1969, the workers' share in profits of the undertaking is regulated in terms of the following provisions :

- (1) The workers shall participate in the profits of the undertaking at a percentage rate fixed by the National Board for workers' Profit-Sharing in undertakings. The percentage rate may be revised presumably from year to year by the National Board. In fixing the percentage the National Board shall carry out investigations and make the

necessary and appropriate studies to ascertain the general conditions of the national economy, and shall take into consideration the necessity for promoting the industrial development of the country, the right of capital to obtain reasonable interest and the necessary reinvestment of capital.

- (2) For the purposes of this Act "profit" shall mean in each undertaking the taxable revenue in terms of the annual declaration field by the employer, in accordance with the rules laid down by the Income-tax Act.

The workers may lodge objections to the declaration submitted by the employer to the Department of Finance and Public Credit. No appeal may be made by the workers against the definitive decision issued by the Department of Finance and Public Credit.

- (3) The profits to be shared shall be divided into two equal parts; the first part shall be shared equally among all the workers, taking into account the number of days worked by each worker during the year, irrespective of the amount of each worker's remuneration. The second amount shall be shared out in proportion to the sum total of the remuneration earned in respect of the work performed during the year.

- (4) The following among others, are exempt from the obligation to share profits :

- (i) newly established undertakings, during their first year of operations;
- (ii) newly established undertakings engaged in manufacturing a new product, during the first two years of operations;
- (iii) newly established extraction or mining undertakings, during the prospecting or exploratory period;
- (iv) private institutions providing assistance, recognised by law, which with means obtained from private property do work of a humanitarian and benevolent nature without profit-seeking and without designating individually the persons receiving assistance;

(v) the Mexican Social Insurance Institution and all decentralised public institutions having cultural, assistance or welfare object;

(vi) undertakings whose capital is less than an amount fixed by the Office of the Secretary of Labour and Social Welfare for each sector of industry after consultation with the Office of the Secretary of Industry and Commerce.

### **Brazil**

3.71 In accordance with the Brazilian Labour Law, all private companies, including the mixed capital companies and some government-controlled concerns which are subject to the provisions of such law, as the Banco Central do Brasil and other official banking institutions pay their employees an annual bonus in December, referred to as "Thirteenth Salary", equivalent to one month's gross salary.

3.72 In addition, some companies extend to their employees a variable bonus representing a share of their profits, which is not mandatory. However, when the payment of this bonus is regularly made for two or more years consecutively, it turns to be an obligation of the employer and the bonus becomes a part of a legal provision turning into a mandatory compensation the extra salary payments usually received by them. Official banking institutions, for instance, used to pay their employees twice a year, in January and July, a bonus equivalent, in most of the cases, one and a half month's gross wage. Such semi-annual bonuses, referred to as "Gratifications", were at beginning paid as a share of their profits, but, for the abovementioned reasons, are now incorporated in the employees' remuneration and its payment bears no relationship with profits any more.

3.73 With reference to governmental agencies, the legal system is different. Such agencies are subject to the special federal, state or municipal laws as the case may be. Accordingly such agencies, being exempted from the general labour law, do not pay any kind of bonuses to their employees.

3.74 In various countries, including the Federal Republic of Germany, Pakistan and Brazil, besides France and others already referred to in the above account, there are legislative provisions for the building up of workers' capital accumulations funds, out of annual allocations from profits, designed to give the workers a larger income from savings and progressively larger stake in the enterprises in which they work, subject to certain ceilings.

**CHAPTER IV**  
**REVIEW OF THE ECONOMY—I**  
**ECONOMIC BACKGROUND**

The Committee's terms of reference require it to make a careful assessment of the likely impact on the economy of any recommendations that are evolved for changes in the Payment of Bonus Act, before finalising the same. Also, in the very nature of the enquiry a close consideration of the economic background for the implementation of any proposals that might emerge is called for. We, therefore, propose to set out at this stage our appraisal of the outlook of the economy against the backdrop of general trends therein especially since the Payment of Bonus Act, 1965 was passed. This period is convenient as we have also been asked to review the operation of the Act.

**Economic Situation : Prices, Production and National Income**

4.2 In several ways a crucial aspect and index of the broad economic trend and state of the economy is the course and situation of prices. Movements in prices epitomise some of the underlying and determining forces and factors in the economy. The following table shows the movements in prices in the context of variations in principal economic indicators, e.g., production, national income and money-supply in India during the last eight or nine years.

*Variations in Selected Economic Indicators*

(Percentage change over previous year)

Financial year	1965-66	1966-67	1967-68	1968-69	1969-70	1970-71	1971-72	1972-73	1973-74	June 1974
	over 1964-65	over 1965-66	over 1966-67	over 1967-68	over 1968-69	over 1969-70	over 1970-71	over 1971-72	over 1972-73	over June 1973
<b>I. Wholesale Price Index Nos. (1961-62=100)</b>										
(a) All Commodities . . .	7.6	13.9	11.6	-1.1	3.7	5.5	4.0	9.9	22.7	27.8
(b) Food articles . . .	7.4	17.9	21.6	-5.3	..	3.6	3.1	13.9	23.4	24.3
(c) Industrial Raw Materials	14.7	18.8	-1.3	0.6	14.6	9.4	-3.2	6.8	46.6	18.6
<b>II. Consumer Price Index Nos. (Working Class) (1960=100)</b>										
. . .	7.6	13.0	11.5	-0.5	1.4	5.1	3.2	7.7	21.1	29.2
<b>III. (a) Agricultural Production<sup>(1)</sup></b>										
—16.7	0.1	21.6	-1.5	6.7	7.3	-0.8	-9.1	N.A.		
(b) Foodgrains Production <sup>(1)</sup>	-19.7	2.2	27.4	-1.2	5.8	8.9	-1.7	-9.5	N.A.	
<b>IV. (a) Industrial Production<sup>(2)</sup></b>										
9.2	-0.4	-1.2	6.4	7.0	4.8	3.1 <sup>p</sup>	7.1 <sup>p</sup>	0.1 <sup>p</sup>	N.A.	
(b) Electricity generated <sup>(2)</sup>	10.0	8.9	11.0	15.6	12.9	10.9	7.3 <sup>p</sup>	9.0 <sup>p</sup>	-4.1 <sup>p</sup> @	N.A.
<b>V. National Income at 1960-61 Prices@@</b>										
—5.1	1.0	9.0	3.3	5.5	4.3	1.7	-1.7	6.0		
<b>VI. Money-supply</b>										
11.0	9.3	8.1	8.0	10.5	11.8	14.0 <sup>p</sup>	15.7 <sup>p</sup>	14.3 <sup>p</sup>	14.2 <sup>p</sup>	

(1) Figures are on agricultural year basis (July—June), Base Triennium ending 1961-62=100 and are Provisional from 1966-67.

(2) Figures are on calendar year basis (January—December), Base 1960=100.

@@Provisional Estimates.

P—Provisional.

@January—September 1973 over January—September 1972.

Sources : (1) Economic Survey 1973-74; (2) Reserve Bank Bulletins; (3) Press Notes issued by Government of India.

4.3 Changes in production, especially agricultural output, provide the most important clue to price movements in the Indian economy. Despite the apparently wide sweep of the "green revolution" earlier, the economy is still dependent upon the monsoons to a significant extent, though its outturn is less of a gamble in the rains than it was for a long time. The wide variations in agricultural production explain the large fluctuations in the price level during the period; the less marked shifts in industrial production and national income growth can also be seen to have followed a generally obverse course to that of prices. A factor which, unlike real output, is observed to have moved in the same direction as prices, is the money-supply, the trends in which have been an important determinant, second only to output, of price changes.

4.4 It will be seen from the above table that the earlier part of the period under review witnessed a couple of years of the steepest peace-time rise in prices in the country.\* This coincided with the sharpest drop in agricultural output in recorded agricultural history, *viz.*, by 16.7 per cent, following the unprecedented drought during the agricultural year 1965-66, with foodgrains (19.7 per cent), oilseeds (20.5 per cent) and fibres (21.3 per cent) having shown similar rates of decline in production; 1965-66 was also the year of the three-weeks' conflict with Pakistan. The continuance of the drought with almost unabated severity for second year, in 1966-67, brought a burgeoning rise in both food and raw material prices, with raw materials continuing to lead the spurt. During 1967-68, though food output rose sharply, prices of foodgrains still continued to rise. Prices of industrial raw materials, however, were stabilised and in fact fell marginally, with the large increase in raw materials production heralding the end of the drought. A short-lived phase of comparative price stability followed for the next couple of years, only partly disturbed by the erratic behaviour of one or two industrial raw materials. Assisted largely by the fillip to production with the spectacular spread of high-yielding varieties of wheat in particular, food articles absorbed well the growing pressure of inflationary financing of increased development expenditures under the Fourth Plan. Finally, however, during the last couple of years or so, the heavy strain of the enormous refugee influx and the hostilities with Pakistan in December 1971, followed by another severe drought in 1972, overtook the economy, being superadded to the cumulative impact of development expenditure, and all these have recently led to the sharpest post-war price rise in a twelve-month period, *viz.*, of 29 per cent, as of March 1974, over-shadowing all earlier peace-time inflationary phases. The phenomenon of rampant shortages and disappearance from the market of essential commodities is a development of the acute inflationary phase during the last year or so which shows signs of persistence and, at points, even of aggravation.

4.5 Industrial production felt the incidence of the recession in agricultural output during the first three years of the period under review. The last few years

however witnessed a welcome recovery in the private industrial sector, though the pace of improvement was fitful and, on latest indications, industrial production is, again, stagnating. On the other hand, the profitability of industry would appear to have revived more markedly than production itself (as we shall notice later), though the current outlook is somewhat obscure. The figures of "electricity generated" in the table above refer to a factor the lagging performance of which has latterly become a critical bottleneck and projected a new threat on the industrial scene.

4.6 The trend of national income has mainly reflected the gyrations of agricultural and industrial production and its growth has continued to fall short of the plan targets with a certain consistency throughout the era of planning. It is, however, in the consistent, considerable and increasing excess of expansion of money supply over the modest or meagre rate of growth of national income as indicated by the figures in the above table, that a main explanation has to be found for the heady price increases observed alike in the first two or three years and in the last couple of years of the period under review.

4.7 A rather fruitless controversy has cropped up as to whether the recent inflation is or is not a monetary phenomenon. As the above survey brings out, the trend of prices has reflected both monetary and non-monetary factors; each type of factor has had a causal relationship to the trend. Either class of factors is important in a diagnosis of the state and stage of inflation. Neither of them can be overlooked. Inflation is an outcome of the relationship or equation between monetary and non-monetary or demand and output/supply factors. The trend of production and supply and consequent flow of goods and services influence prices as much as, and at times more than, the size of the money stream. The price-trend has been observed above to move in the same direction as, and correspond in some manner to, the flow of money-supply, but not to coincide with, or follow, the same precisely. The explanation of such divergence is to be found in the importance of the supply factor as well as the variable velocity of money-supply, which again is at least partly governed by the state of the supply factor.

#### Monetary Trends and Balance of Payments

4.8 Having noted the need for caution in interpreting the relationship of monetary factor to prices, a brief reference to the monetary trends in the economy and analysis of variations of money-supply during the period under review will be in order at this point. The rapid rate of increase of money-supply in the last few years, triggered primarily by extension of Reserve bank credit to Governments—Central and State, at an unusually high rate, only partly offset by a welcome surge in time deposits with banks (and by other savings), has been the main ingredient of the fuel behind the inflationary fire. Some of the sources of the big bulge in R.B.I. credit—the core of deficit-financing—have been the aftermath in increased

\*Except at the time of food decontrol in late forties and early fifties when market prices came to replace the officially controlled prices in the published data.

defence expenditures of the series of hostilities, the droughts and the heavy refugee relief burden. More recently, in the aftermath of the sharp inflationary up-trend, bank credit to the private sector has also experienced an upsurge and contributed its quota to the sources of inflation.

4.9 Another strong inflationary influence that has been actively at work recently is the general inflationary movement in the world, which is transmitted to India through higher prices of imports and, to a smaller extent of, exports. The world economy during the last year or so, too, has experienced its worst bout of inflation in the midst of floating exchange rates and a widespread relapse from the relatively orderly conditions in the money and exchange markets that characterised the long phase of steady growth during post-war years. The most recent development on the international economic scene is the flare-up in West Asian oil prices following re-eruption of the West Asian war. This has so radically altered the energy outlook of most countries, including our own, and so upset the basis of many of our economic projections and calculations as to require re-thinking much of the strategy and many of the assumptions of our development planning.

### Inflation and Financial Management of the Economy

4.10 The continuing long-term problem of the Indian economy has been and remains that of inadequate financing of the large and increasing development expenditure. Inflation is largely a reflex and offshoot of inadequacies of financial management as well as of planned development with its serious shortfalls in fulfilment of output targets. These underlie the continuing price up-trend which, once it exceeds certain limits, tends to assume a spiral character. We make these observations because of our basic concern with the trend in the over-all remuneration of workers. As a later section of this review brings out, it is extremely difficult to compensate labour fully against rising prices and avoid a decline in real wages during inflationary periods, and the only times when real wages have shown some improvement have been periods of comparative price stability or moderate price increases. This is why we appreciate in particular what we regard as a major policy pronouncement, *viz.*, the following introduction to the section on 'Prices, Wages and Incomes' in the document on "Approach to the Fifth Plan 1974—79" (January 1973): "Inflation is inconsistent with the objectives and strategy of the Fifth Plan. It tends to accentuate inequality, discourages exports, induces avoidable imports and pushes resources into socially wasteful uses such as real estate, luxury housing, speculative inventories, bullion and jewellery and clandestine foreign exchange balances. Inflation enlivens speculation, stimulates inessential and conspicuous consumption, and generates a climate of industrial strife and instability. A falling value of the rupee makes rational accounting difficult. Proper formulation and implementation of the Plan requires that effective safeguards are provided against inflation". Basically, inflation renders nugatory the accepted and acclaimed emphasis in the Constitution, the Plans and in our

socialist aims, on promoting equality and reducing inequality, as it is anti-thetical to these objectives as well as to planning.

4.11 We note the determined bid reflected in the recent measures taken by the Government to stem the tide of inflation and to restore a degree of stability in the economy, though our colleague Shri Mahesh Desai does not subscribe to this view. In this context we recommended that Government should take a close look at the arrangements for continuous and co-ordinated overall management of the economy especially from the point of view of keeping it on an even keel, so that the several parts of the apparatus of Government and planning are able to pursue their different assigned tasks, including plan implementation, in a stable framework.

### Investment and Saving in the Economy

4.12 The story of the efforts of the Central Government to step up the pace of investment through its expenditure scheme (inclusive of assistance to State Governments and public sector enterprises) is brought out in the following tables:

*Gross Capital formation out of the Budgetary resources of the Central Government*

Year	Gross Capital formation by the Central Government	Gross Financial assistance for Capital Formation to rest of economy	(Rs. Crores)	
			1	2
1965-66	.	520	1285	1805
1967-68	.	467	1208	1675
1969-70	.	393	1220	1612
1971-72	.	597	1564	2161
1972-73 (R.E.)	.	749	1969	2718
1973-74 (B.E.)	.	897	1986	2883

The above figures do not fully disclose the continuing massive investments by the Central Government itself in the infrastructure of development made in Central Government undertakings, which increased from Rs. 2415 crores for 74 units at the end of 1965-66 to Rs. 4682 crores for 97 units at the end of 1970-71 and to Rs. 5571 crores for 113 units at the end of 1972-73. The Fourth Plan Mid-term Appraisal underlined a major implication of these large-scale public investments: "It is imperative to recognise that the generation of savings in the form of retained surpluses is as important a responsibility of the public sector as filling the physical gaps in the economic structure. Every possible effort must be made to improve the operational efficiency of the public corporate sector in terms of financial results".

4.13 We may now have a look at the over-all picture in terms of the rate of investment in the economy, and the rates of saving—domestic and foreign—which have contributed to its financing, during the period we have set for review. These are brought out in the table below:

*Rate of Saving and Investment*

Year	Domestic saving	Foreign saving	Investment	As % of NDP*
				As % of NDP*
1964-65	. .	9.8	2.2	12.0
1965-66	. .	11.1	2.3	13.4
1966-67	. .	9.0	3.2	12.2
1967-68	. .	7.9	2.7	10.6
1968-69	. .	8.4	1.1	9.5
1969-70	. .	8.4	0.8	9.2
1970-71**	. .	8.3	1.3	9.6
1971-72**	. .	8.2	1.4	9.6
1972-73**	. .	9.5	1.0	10.5
1973-74**	. .	10.2	0.9	11.1

\*Net domestic product at current prices.

\*\*Estimates.

A stark fact which is brought out by the above table is that the key lever of our development efforts, *viz.*, the rate of investment, which in earlier projections of the perspective of our planning was to have been marked up to much higher levels, has turned out to be lower now than in the third plan; it is even lower than at the end of the second plan. This is partly because the rate of domestic saving is lower, having been impaired by factors some of which have been recounted above, and partly because the contribution of foreign saving to an increase in investment has been sharply slashed, what with the mounting burden of servicing and repayment of debt.

#### *Self Reliance*

4.14 It is not necessary to narrate the fuller background of the exiguous frame for our development disclosed by these figures. It is sufficient for our purpose to record the lesson they hold for all, namely, that a tremendous effort of national will and a concerted series of measures would have to be directed at hiking up the prime mover of development—the rate of investment. These would entail rigorous restraint of the claims and share of consumption, especially of the comparatively affluent, if progress towards our goals is to be assured. This is particularly so if the achievement of substantial self-reliance within the current decade is to be accepted as being one of the important goals for planning. "The self-reliance objective requires that, as early as possible, the country must generate from its net domestic product a large enough net export of goods and services to meet the deficit arising from large and growing investment income and capital amortization payment to the rest of the world. A rise in the pro-

portion of NDP absorbed in net investment and the conversion of the present net import of goods and services into an adequate export surplus would necessarily involve a corresponding decline in the proportion of NDP absorbed in consumption, public and private. This is the essence of the investment saving problem". "Clearly the country has yet to go a long way before it attains adequate rates of investment and saving". (Fourth Plan Mid-term Appraisal Report).

4.15 An assessment of the capacity of the economy for self-reliant growth—one approximate index of which was advanced some time ago as zero net foreign aid by the end of the Fifth Plan—has to be based on the position and prospects of the country's international trade and balance of payments. The trends in this sector until recently, with some considerable improvement in exports and a sizeable accession to foreign reserves till the middle of last year—part of it through allocation of a share of new international reserves, *viz.*, SDRs—were a heartening sign. But the aftermath of the last year's drought and industrial slack in heavy pent-up import demand for foodgrains, fertilisers, steel, petroleum, machinery equipment etc., as well as the sharp rise in cost of imported materials and equipment would, even before the recent transformation of the international payments scene, have imposed a heavy additional strain on the payments situation. The drastic change in the payments outlook occasioned by the world oil crisis has led to a further serious deterioration which is reflected in a considerable draft on reserves in the last few months and available credit facilities with the IMF, and offers the prospect of a further immeasurable adverse shift in the international payments position. In this context, the near-term viability of the objective of substantial self-reliance has been seriously impaired and persistence in its pursuit in any rigid form would jeopardise the more important goal of continuance of economic growth even at a moderate pace. Progressive self-reliance, however, emerges as an ineluctable necessity in an international environment where the balances of payments of developed countries themselves have been severely shaken by recent developments and a wide and growing gap between promise and performance or targets set and implemented in the field of international assistance has come to be accepted as a matter of course.

#### *Restraint of Consumption*

4.16 On the whole, the highly exigent state of our balance of payments on a medium-term as well as longer view calls for continued discipline and restraint in the disposition of the national product so as to conduce to the maximum extent practicable to the encouragement of investment and production for the improvement of the national product. Hence it is that along with measures directed to regulate the incomes of other sections of society, increases in workers' remuneration, including bonuses have to be made with due regard to the constant need to keep consumption in the economy within bounds. Hence,

too, the necessity of exploring forms of payment of bonus above certain limits in ways that do not impair the immediate availability of resources for the development of the economy; we note certain recent measures taken by the Government in this direction. The above considerations, however, which were compelling enough by themselves and made any liberalisation of policies impinging on consumable income a risky move at any time, have been further underlined by the most recent transformation of the economic outlook—domestic as well as international—to such a degree as almost to preclude the possibility of any significant direct increases in remuneration in spendable form in the near future. This, however, presumes early restoration of a minimum degree of stability, for the employed population could not be expected to accept indefinitely postponement of increases in remuneration necessary to maintain their exiguous living standards. In any case, we are not suggesting anything in the nature of a wage freeze here. Sarvashri Mahesh Desai and G. Ramanujam do not subscribe to this analysis.

#### *Poverty and Unemployment*

4.17 No review of the economic background to the deliberations of the Committee will be complete without reference to some wider distributional aspects of the national income which have been brought into relief particularly by a series of recent studies on poverty and unemployment, their measurement and trends. It is not necessary for our purpose to recapitulate the highlights of the studies or enter into the conceptual and other problems thrown up by them. It will suffice to state that all the studies agree on a few main points. Their outstanding conclusion relates to the extent and intensity of poverty, by whatever standards defined, covering a third to one-half or more of the population, and the worsening or deepening of poverty over recent decades, including the last few. A related finding—though the criteria and measures in this sector are more difficult and controversial—concerns unemployment. This is a phenomenon, which is both widespread and endemic in the economy and which, too, claims urgent and prior attention. It is important, therefore, that while we show the fullest response practicable to the claims of the employed industrial and other population, we also bear constantly in mind the plight of the vast numbers of the rural and urban poor and unemployed persons and the demands for programmes of investment and social welfare expenditure to alleviate their lot. This then is a facet of the country's economy which must continue to inform and guide our search and efforts for solutions to the problems of the comparatively better off sections of the population, of which labour in the organised industrial and commercial sector is a sizable component.

#### *General Perspective*

4.18 We come back to the general perspective for our labours. It is apparent on the whole that a heroic effort has been afoot to lift the economy of the country to higher levels. Bedevilled by mishaps and bedevilled by a poor run of luck as the economy has been, it did weather successive storms in the past several years and emerged each time, though not

unscathed, stronger at least in some respects. And underlying the repeated but temporary reverses was a steady if slow advance of the indices of progress over a wide front and in varied sectors of the economy. Very recently, however a series of internal economic set backs has been compounded by external misfortune as reflected in a serious adverse turn in the international economic trends bearing on the economy, and it becomes necessary to pause and take stock of the position of the economy before embarking on any major policy departures which might complicate an already difficult and delicate economic situation. Sectorwise, a closer look at the position of agriculture suggests that what with the severe relapse for a second time within a few years suffered by this sector, the early bright promise of the Green Revolution has faded somewhat and renewed and consistent policy initiatives are awaited before a resumed role and contribution of agriculture to the development process appropriate to its place in the economy may be presumed. Industrial production too has latterly had its phases of stalemate stemming largely from the malaise of agriculture but also accentuated by investment imbalance and administrative error, and currently industrial production is stagnating again, what with cumulative shortages of essential raw materials, fuel, power and transport. Planning strategy at one time seemed to be emerging from excessive attachment to heavy industry on the one hand and short term employment orientation on the other and to be seeking ways to steer the economy toward goals of higher output, and wider social welfare and broadened infrastructure. More recently, it has been bogged down by a series of threats on the international and national economic plane which it is barely gearing itself up to meet. In the sector of external economic relations, the resurgence of exports, especially in non-traditional sectors, is one of the good economic indicators, if we build on the base thus offered to secure a wider-ranging advance into intensely competitive international markets, and use the stimulus thus available for its salutary impact on the domestic economy. However, the strain on the external payments side resulting from the steep hike in oil prices is a new factor of profound and as yet unpredictable ramifications. Withal, the persistence of domestic inflation with its disruptive trail of effects adds its own quota of ills to a beleaguered economy. Altogether, the adequate management of the economy poses fresh and high challenges to economic acumen and require more than conventional expertise and sheer commitment and zeal in pressing forward toward the goals and targets of national policy and endeavour. The new challenges to the economy have to be met. This is an irreducible premise in the current situation of the economy. It is also a premise of our report. An ineluctable part of this premise, which has been referred to above, is the new urgency and relevance of restraint of increases in consumption as a prime consideration in operation of the distributive mechanism, at any rate as a necessary short term aid to the stabilisation effort. Sarvashri Mahesh Desai and G. Ramanujam do not subscribe to this analysis.

4.19 We turn in the following chapter to a review of the financial trends in industry and the trends in bonus and in industrial unrest and peace since 1965.

## CHAPTER V

### REVIEW OF THE ECONOMIC—II

#### **Financial trends in Industry and trends in Bonus and Industrial Peace**

In a review of developments of the organised sector of the economy since the Payment of Bonus Act was passed, the trend of profitability in industry is of interest as a background to a consideration of the problem of bonus in general. A proximate indicator of the state and trend of profitability in industry generally is to be found in the accounts of 1501 public limited companies in the private sector having a share capital each of atleast Rs. 5 lakhs or more,

which have been reviewed and published as a constant sample by the Reserve Bank since 1965-66, the year of coming into operation of the Bonus Act; with effect from 1971-72 the sample has been enlarged to 1650 companies. Though these companies exclude public sector enterprises, private limited companies and proprietorships, their operations are observed to have been indicative of the broad trends in the economy. The over-all results of all companies in respect of their profit, dividend and capital formation rates are given in the following tables.

#### *Profitability Ratios*

1501 Public Limited Companies : All Industries

	1965-66	1966-67	1967-68	1968-69	1969-70	1970-71	1971-72
1. Gross profits as percentage of sales (net of rebate and discount)*	9.8	9.6	8.4	8.0	8.7	9.0	9.9 (10.3)
2. Gross profits as percentage of total capital employed	10.1	9.8	8.6	8.5	9.6	10.4	10.2 (10.2)
3. Profits after tax as percentage of net worth	8.9	9.1	7.3	7.0	9.5	10.1	9.5 (10.5)
4. Profits retained as percentage of profits before tax	18.6	20.9	14.5	13.7	24.2	23.3	22.3 (26.6)
5. Dividends as percentage of net worth	5.6	5.5	5.2	5.1	5.4	5.7	5.4 (5.5)
6. Ordinary dividends as percentage of ordinary paid-up capital	10.4	9.6	9.1	8.9	9.7	10.6	9.9 (9.8)
7. Total dividends as percentage of total paid-up capital	9.8	9.2	8.7	8.6	9.3	10.1	9.4 (9.3)

#### *Capital Formation Rates : All Industries*

(Percentage rate of growth over previous year)

	1966-67	1967-68	1968-69	1969-70	1970-71	1971-72
1. Gross fixed assets formation	10.5	9.0	7.6	7.3	6.8	7.2
2. Net fixed assets formation	9.6	7.0	5.0	3.9	2.7	3.3
3. Inventory accumulation	12.2	9.7	2.3	7.8	13.3	13.3
4. Gross Capital formation	11.0	9.2	6.6	7.4	8.7	9.0
5. Net Capital formation	10.4	8.1	3.9	5.5	7.3	7.7

\*Net of rebate and discount and excise duty and cess in the revised series.

Figures within brackets give the relative ratios for 1650 companies for 1970-71.

**Note.**—The number of companies remained at 1501 for the period 1965-66 to 1970-71 and 1650 in the revised sample for 1970-71 and 1971-72.

**Source:**—Reserve Bank of India Bulletin, September, 1972 and January, 1973

5.2 The above tables generally indicate that the profitability of industry which had suffered a relapse for two or three years after 1965-66 consequent upon the stagnation of industry following the unprecedented drought and extraordinary defence demands of the period revived again markedly in 1969-70, more or less uniformly in terms of all indices, e.g., gross profits in relation to total capital employed, profits after tax as percentage of net worth, retained, profits, inventory formation and dividends. 1970-71 recorded further improvement under most heads. There was a serious lag, however, in fixed capital formation which would appear to be accounted for by special and complex factors. The results of 1650 public limited companies for 1971-72 indicate that there was a welcome reversal of the long-continued downtrend in the sector of gross and net fixed assets formation in the corporate sector, though in that year the indices of profitability showed a small decline. The latest indications based on the working of 350 large companies for 1972-73 are that these trends have continued. It is to be hoped that, on a long-term view, the general improvement in the working and financial trends of industry will be maintained. In any case, fluctuations in fixed assets

formation are, characteristically, liable to be larger than in other indices of industrial expansion, and the financial ability of the private corporate sector to expend has been substantially repaired.

5.3 The trends noticed above are based on the financial working of industry up to 1971-72 while industrial production was on a modest uptrend. The most recent phase of industrial stagnation that has overtaken industry, as noticed in the last chapter, is likely to claim its own toll in the financial out-turn of industry, even if any adverse turn might again be overcome soon.

5.4 The particular sector of weakness in private industry is that of the comparatively small companies: on the basis of financial results of companies by size, profitability is observed to have declined consistently with size over the entire period since 1965-66. The following table showing profitability ratios size-wise for 1970-71 and 1971-72, which repeats the story of earlier years, throws into relief the light of the small company struggling to compete with the larger units.

*Profitability ratios according to size of Paid-up Capital. 1970-71 and 1971-72*

Size-group	Num- ber of Com- panies	Gross Pro- fits as percentage of net sales@	Gross Pro- fits as percentage of total capital employed	Profits after tax as percentage of net worth	Profits after tax less preference dividends as percentage of ordinary paid-up capital	Dividends as percentage of net worth	Ordinary dividend as percentage of ordinary paid-up capital	Total divi- dends as percentage of total paid-up capital							
		1970- 71		1971- 72		1970- 71		1971- 72		1970- 71		1971- 72		1970- 71	
		1	2	3	4	5	6	7	8	9	10	11	12	13	14
Rs. 5 lakhs—Rs. 10 lakhs	138	5.2	4.4	6.2	5.3	2.9	..	5.3	-0.5	2.7	3.1	4.9	5.5	4.8	5.4
Rs. 10 lakhs—Rs. 25 lakhs	416	5.3	5.1	7.0	7.0	4.5	2.8	7.0	4.3	3.9	3.7	6.0	6.0	5.9	5.8
Rs. 25 lakhs—Rs. 50 lakhs	420	6.7	6.4	7.8	7.9	5.5	3.8	8.2	5.1	4.0	4.5	5.8	6.3	5.5	6.0
Rs. 50 lakhs—Rs. 1 crore	322	7.9	8.3	8.5	9.3	7.2	7.8	12.5	13.9	4.4	4.6	7.3	7.9	6.9	7.4
Rs. 1 crore—Rs. 2 crores	169	9.8	9.5	10.0	9.7	9.6	8.1	17.6	15.1	5.0	4.9	8.7	8.7	8.2	8.3
Rs. 2 crores—Rs. 5 crores	137	12.0	11.4	10.5	10.5	11.0	10.2	20.4	19.6	6.4	5.9	11.4	11.0	10.6	10.4
Rs. 5 crores and above	48	13.5	12.8	12.3	12.0	13.6	12.1	26.8	24.6	6.2	6.0	11.7	11.9	11.3	11.5
TOTAL	1650	10.3	9.9	10.2	10.2	10.5	9.5	19.3	17.9	5.5	5.4	9.8	9.9	9.3	9.4

@Net of rebate and discount and excise duty and cess.

Source : Reserve Bank of India Bulletin, January, 1974.

#### Trends in Bonus since 1965

5.5 The Committee has been asked to review the operation of the Payment of Bonus Act as a background to consideration of modifications therein. We,

therefore, issued a questionnaire addressed to individual industrial units, both in the public and private sectors which came within purview of the Act. Useful data during a period of five years since 1965, when the Payment of Bonus Act was passed regarding

variations in their gross profits, depreciation and other items of deductions and prior charges in terms of the Payment of Bonus Act, the allocable surplus in terms of the Act, the rates of bonus payable and actually paid, etc. have been collected from over a hundred companies in the private sector\* and 22 companies and corporations in the public sector. Although the sample of companies from which complete and comparable data are thus available is not at all systematic or adequate, the information on the movement of the various series enables us to observe broadly the trends in bonus and in its determinants or constituent elements in different industries. These trends are summarised in an annexure to this Chapter (Annexure I) based on the magnitude of various components of the bonus calculation for two years, 1965 and 1970, *viz.*, at the beginning and at the end of the period for which the data have been collected. The salient features of the trends disclosed in the tables in the Annexure are given in the following paragraphs.

5.6 The general improvement in the profitability of industry between 1965 and 1970 with the phase of recovery from the industrial recession of the mid-sixties is reflected in the trends of the various series. Thus gross profits were generally higher in 1970 than in 1965, depreciation under the Act on the other hand represented a lower proportion in the majority of companies in 1970 than in 1965, direct taxes were higher in the later year than in the earlier one, total deductions and charges again declined in percentage terms in 1970 compared to 1965, while the available and allocable surpluses were larger generally in 1970 than in 1965, except in the tea and sugar industries, where special seasonal factors affecting the output were apparently more powerful and where profits and available and allocable surpluses were higher in 1965 than in 1970.\*\*

5.7 It will also be seen that in 1965 most of the *textile* companies included in the sample paid only the minimum bonus of 4 per cent, with 2 or 3 companies paying marginally higher bonus. In 1970, fully one quarter of the companies in the table paid higher than the minimum rate and a few paid at the maximum rate of 20 per cent, with one paying more than the maximum bonus.

5.8 Among *tea* companies, the change from 1965 to 1970 is in opposite direction. 6 out of 17 companies showed available surplus in 1965 of percentages of gross profit varying from 8.5 to 20.8; only 4 companies had any available surplus in 1970, varying from 1 to 9 per cent in three cases; the fourth company was a notable exception showing a much higher percentage of 30 per cent. Accordingly, the rate of bonus *payable* in terms of the formula was higher than the minimum in the 6 companies which had (positive) available surplus in 1965; in 1970, except in one company where the maximum rate was payable, only the minimum bonus was payable in all

companies. The bonus actually paid in tea companies appears to have been another story. In most cases, it was higher than what was payable under the formula, and higher than the minimum though the minimum only was due.

5.9 The experience of *sugar* companies—only 8 companies submitted complete data—is, in some ways, in refreshing contrast to that of textile and tea companies inasmuch as most companies has an available surplus, and the majority a fairly substantial one, in 1965; even in 1970, the larger number of companies had substantial available surpluses. The majority of sugar companies had substantial available surpluses. The majority of sugar companies was liable to pay bonus above the minimum bonus both in 1965 and 1970, and in a majority of them, again, the maximum bonus was payable in 1965. As regards bonus actually paid, most companies paid above the minimum and half the number at the maximum rate in 1965; in 1970, the majority paid bonus at the maximum rate and even the minority paid at rates of about 15 per cent.

5.10 *Engineering* companies presented a mixed picture. Most companies included in the Annexure showed available surpluses in terms of the formula, with the majority being liable to pay bonus at the maximum rate or above 10 per cent in 1965. There was some worsening of the outlook in 1970. The bonus actually paid was somewhat higher than what was payable both in 1965 and 1970. The mixed fare was repeated in *chemical* companies, with substantial improvement in performance on the whole regarding available surplus, bonus payable as well as bonus paid, between 1965 and 1970.

5.11 The few *jute* companies included in the table indicated improvement in working and better available surpluses between 1965 and 1970, but these companies appeared liable to pay mostly the minimum bonus in both years. The actual bonus paid was higher in most or all cases in 1970. The *miscellaneous* companies included in the Annexure—a few of them giants—reflected a heterogeneous record in keeping with the category.

5.12 In *electric* companies, bonus payable in terms of the formula was mostly at the minimum rate in 1965 and largely at this rate in 1970. The bonus actually paid had, however, hardly any relation to the formula either in 1965 or in 1970, the formula having remained mostly inoperative.

5.13 Only 22 *public sector* companies including 18 Central and 4 State units submitted complete returns directly in response to the Committee's questionnaire. It will be seen from the table on Public Sector Companies in the Annexure II that their gross profits went up substantially in a large majority of the units, while some showed a decline in gross profits, between 1965 and 1970. As a percentage of profits, return on capital formed a smaller

\*These include 30 cotton textile companies, 17 tea, 12 engineering, 10 electric, 8 sugar and 7 chemical companies, besides others.

\*\* Except notably for Brooke Bond in Tea Industry.

proportion of gross profits in 1970 in the majority of the undertakings included in the table. The return on reserves—small as it is as a fraction of profits—increased somewhat between the two years, indicating the better working of public sector units and accretion to their reserves. Only 6 out of the 22 companies had available surplus both in 1965 and 1970, though there was some change in the composition of units which had a surplus. The rate of bonus payable as per the formula was the minimum in about three-fourths of the number of companies in 1965 and in the majority of undertakings also in 1970. Of the others, four were at the maximum rate in both years; there was also some increase in the rate of bonus payable by the rest. The rate of bonus actually paid, though also at the minimum in about half the number of companies in 1965 and less than half in 1970, was higher in several cases than the bonus due or payable.

5.14 A statement on bonus payment by Public Sector Enterprises during two years 1969-70 and 1970-71 supplied by the Bureau of Public Enterprises (Annexure III) gives information on the computation of bonus including net profit (or loss) available surplus, allocable surplus, and rate and amount of bonus payable and paid. Of the 70 undertakings included in the statement, 28 paid more than 8-1/3 per cent bonus in 1970-71 and 32 paid 8-1/3 per cent or less as bonus. Of the 28 in the former class, all but 12 paid bonus at the maximum rate of 20 per cent. In 2 cases, though the bonus payable was 4 per cent 20 per cent was paid; in other cases, bonus was paid at the maximum rate in terms of settlement or agreement with workers. In several cases the bonus paid was somewhat higher than due under the formula. The public sector enterprises would thus appear to have been acting up to the traditional concept of the public sector being the model employer. The apparently improved working and profitability of public sector enterprises was reflected in higher rate of bonus payable as well as paid in 1970-71 as compared with 1969-70.

#### Bonus to Higher-Paid Employees

5.15 Question 4(a) of Part-B of our questionnaire referred to payment of bonus to employees drawing

wages/salaries above Rs. 750 per month. The companies were asked to supply information whether they had paid bonus to such employees at a rate higher than that for other employees under the Payment of Bonus Act, it being understood that this bonus is paid out of the employers' share of the available surplus.

5.16 From the answers furnished by the public sector enterprises, it is observed that these companies have been generally following the Payment of Bonus Act in regard to maintaining the ceiling for bonus to employees at the figure for those drawing Rs. 750 per mensem. A few exceptions are noticed in respect of some companies which have complied with the advice of the Bureau of Public Enterprises by paying bonus to those drawing above Rs. 1600 per mensem out of the 40 per cent allocable surplus belonging to employers. Even in such cases some have paid the bonus as if the salary of the employee was Rs. 750; some others have gone up to Rs. 1600 for the same rate of bonus to the higher-paid employees.

5.17 As in the case of public sector companies, the general practice prevailing in the private sector is to pay bonus as per the Act. However, some exceptions are noticed. Some of the very affluent companies have raised the ceiling for the payment of bonus of Rs. 1600 very substantially, or without any limit. Again, the ceiling of Rs. 750 for calculation of bonus has not been uniformly adhered to. In some companies higher rates have been offered to higher-paid employees than those for employees in terms of the Act, the rates varying for labour, staff and executives.

#### Trends in Industrial Peace

5.18 A criterion of the general results of a measure as important as the Payment of Bonus Act is the extent to which it might have contributed to the promotion of industrial peace or, on the contrary, accentuated industrial unrest. The following table gives the statistics of industrial disputes and man-days lost, by cause of dispute, during twelve years from 1961 to 1972 :

*Bonus disputes in India, 1961—72*

Year	No. of bonus disputes	As % of total disputes	No. of workers involved in bonus disputes (000's)	As % of workers involved in all disputes	No. of man-days lost in bonus disputes (000's)	No. of man-days lost in all disputes (000's)	As % of man-days lost in all disputes
1	2	3	4	5	6	7	8
1961	91	6.9	48	9.7	1,004	4,919	20.5
1962	182	12.3	148	21.1	2,150	6,121	35.3
1963	147	10.0	98	17.5	353	3,268	10.8
1964	167	7.9	140	14.0	690	7,725	8.9
1965	181	9.9	173	17.5	1,035	6,470	16.6

1	2	3	4	5	6	7	8
1965 . . . . . . . .	335	13.2	438	31.4	3,781	13,846	27.4
1967 . . . . . . . .	300	10.9	111	7.5	1,571	17,148	9.5
1968 . . . . . . . .	255	9.4	146	8.9	1,479	17,244	8.6
1969 . . . . . . . .	262	10.0	230	12.6	2,438	19,048	12.8
1970 . . . . . . . .	300	10.6	495	27.2	6,151	20,563	30.0
1971 . . . . . . . .	384	14.1	473	29.4	2,729	16,546	16.5
1972 . . . . . . . .	263	8.4	271	15.9	2,183	20,544	10.8

Source :—Indian Labour Journal : November 1963, October 1964, December 1965, January 1967, 1968, 1969, 1970, 1971, December 1971, 1972 and 1973.

It would appear that bonus disputes had intensified (in terms of man-days lost) when the Bonus Commission was set up, *viz.*, in 1962. There was a period of comparative quiet for three years thereafter, while the Commission was at work and legislation was on the anvil. The year after the Payment of Bonus Act was passed saw a rerudescence of industrial unrest as evidenced by loss of industrial time in bonus disputes in 1966, coinciding with the first effects of shift to a new basis of regulation. A distinct improvement in the climate of industrial peace followed, which suggests that industry and labour were setting down to working within the framework of the legislation until, in 1970, trouble erupted again. This time, as the course of recent history suggests, it was cumulative dissatisfaction on the part of labour with insufficient relief through bonus in a phase of rising prices, which gathered into a storm over the level of minimum bonus. The events reflected the

impact of a period of industrial stagnation on the profitability of industry with continued low rates of bonus as a consequence. Agreement to set up the Bonus Review Committee in 1971 presumably warded off many disputes in that year and led to a sharp decline in loss of man-days, though the number of disputes and workers involved remained high. 1972 was a year of quiescence in industrial disputes on account of bonus with the minimum bonus issue largely out of the way and the phase of quiescence has apparently continued but an air of uneasiness persists.

5.19 We turn now to a consideration of some aspects of distributive shares of the national income or product including in particular the trends in real earnings of labour, which have a general relevance to the subject-matter of our enquiry.

सत्यमेव जयते

*Statement showing gross profits and percentage to gross profits of various items of deductions and prior*

Name of the Company	Gross Profits in lakhs of Rs.		Depreciation*		Development Rebate*		Direct Taxes*		Return on Capital*		Return on Reserves*	
	1965	1970	3%	4%	5%	6%	7%	8%	9%	10%	11%	12%
	1	2	3	4	5	6	7	8	9	10	11	12
<i>Cotton Textiles :</i>												
1. Dhanalakshmi . .	19.88	36.47	39.9	28.7	20.7	3.1	19.7	39.2	18.4	10.0	6.0	5.2
2. Coimbatore Cotton . .	10.50	28.42	103.6	35.5	24.3	7.6	--	31.3	29.1	10.8	25.0	11.1
3. Bharat Suryodaya . .	12.19	14.31	61.0	64.6	11.7	12.1	23.1	13.3	10.3	8.7	4.3	12.6
4. Trichinapally . .	1.73	7.11	77.7	56.7	50.9	35.4	--	39.0	67.6	16.5	33.5	11.1
5. Nutan . .	11.29	35.29	90.8	40.8	25.5	11.4	1.9	26.3	20.7	7.8	42.0	10.3
6. Sri Ambika . .	154.74	303.54	22.4	23.6	7.6	7.0	39.9	39.1	5.2	4.1	17.6	10.2
7. Sri Siddeswara . .	6.75	3.44	92.6	207.0	57.6	2.3	--	--	12.6	36.9	13.1	37.8
8. Super Spinning . .	6.63	41.74	140.1	24.6	168.0	1.9	--	44.4	32.1	14.5	--	--
9. Rayalaseema . .	5.54	10.21	46.2	33.0	--	1.6	10.8	35.9	45.7	24.8	6.7	5.3
10. Ahmedabad Advance .	27.96	57.57	61.8	37.3	14.3	9.4	12.9	29.3	20.8	12.3	15.5	10.2
11. Madura Mills . .	131.05	328.35	69.5	29.1	9.2	4.2	10.6	36.7	11.4	18.1	22.1	7.0
12. Shri Ganesar . .	7.89	1.90	72.0	264.2	--	5.3	12.3	--	28.4	118.4	4.9	40.0
13. Shri Akkamamba . .	9.25	6.59	66.7	92.4	56.3	0.5	--	--	--	--	--	--
14. Western India . .	6.89	12.90	62.7	28.0	13.2	2.3	3.6	38.3	16.7	9.0	7.0	5.2
15. Shri K. Rajendra . .	15.78	19.50	62.0	51.4	24.9	30.3	7.2	10.1	23.8	19.9	4.1	3.8
16. Monogram . .	5.31	13.01	143.3	36.5	3.0	2.7	--	33.4	55.4	22.6	21.8	6.5
17. Asher Textiles . .	5.91	12.02	82.7	26.2	15.2	0.3	8.6	40.6	17.2	6.3	12.9	5.7
18. Mettur Beardsell. .	35.00	70.07	14.0	9.8	6.9	1.0	47.2	43.6	20.4	17.8	--	--
19. Bharat Commerce . .	80.63	153.80	66.3	40.2	16.9	3.5	36.0	24.1	16.9	15.8	--	--
20. Sri Karunambikai . .	4.25	11.14	60.7	64.2	4.0	21.3	17.2	--	28.7	11.8	15.5	7.3
21. New Swadeshi . .	46.31	44.25	54.4	54.9	9.1	16.6	20.1	15.7	9.8	15.3	9.7	7.2
22. Raipur Mfg. . .	41.05	71.30	34.6	38.3	7.6	9.0	27.6	28.0	11.4	6.6	13.1	9.6
23. Ashoka . . .	38.51	77.42	49.2	35.5	12.8	8.0	20.0	30.0	8.1	6.2	13.5	11.7
24. Ajit . . .	15.75	19.49	47.8	59.2	8.1	20.2	24.3	11.5	11.1	9.0	17.0	15.6
25. Silver Cotton . . .	15.14	29.66	67.4	48.3	15.7	8.7	9.8	24.2	8.3	4.2	22.4	15.3
26. Becharadas . . .	7.21	9.01	139.7	66.9	2.2	3.7	--	16.2	33.7	27.0	3.9	3.2
27. Vikram . . .	10.29	18.13	92.4	32.5	4.8	0.7	1.6	36.7	31.3	17.8	12.4	8.7
28. Rajkumar . . .	16.69	13.98	25.9	25.1	0.4	4.4	41.2	38.8	6.5	15.5	14.4	17.8
29. Premier Cotton . . .	10.10	38.10	89.9	28.3	25.5	1.2	--	38.8	29.5	7.8	5.2	9.4
30. Nagri . . .	14.01	23.11	40.7	38.0	8.8	7.4	21.4	30.0	9.8	6.0	14.1	10.3

-- indicates nil or negligible.

\* Percentage of gross profits.

charges, allocable surplus, rates of bonus payable as per payment of bonus act and actually paid

Total Deductions and prior charges*		Available surplus*		Allocable surplus in lakhs of Rs.		Salaries and wages in lakhs of Rs.		Rates of bonus as per formula £		Rate of bonus actually paid £	
		% 1965	% 1970	% 1965	% 1970	1965	1970	1965	1970	% 1965	% 1970
13	14	15	16	17	18	19	20	21	22	23	24
104.7	86.2	—	13.8	—	3.02	36.63	56.35	4	5.4	4	8.1
182.0	96.3	—	3.7	—	0.64	29.61	40.15	4	4	4	9.4
110.4	111.3	—	—	—	—	44.14	54.75	4	4	4	4
223.7	158.7	—	—	—	—	12.69	18.48	4	4	4	12
180.9	96.6	—	3.4	—	0.73	47.36	58.91	4	4	4	4
92.7	84.0	7.3	16.0	6.74	29.11	132.01	199.91	5.1	14.6	5	16.1
175.9	284.0	—	—	—	—	4.68	8.62	4	4	4	4
340.2	85.4	—	14.6	—	3.65	N.A.	14.52	4	20	N.A.	20
109.4	100.6	—	—	—	—	18.57	26.38	4	4	4	8.3
125.3	98.5	—	1.5	—	0.52	92.59	133.07	4	4	4	8.3
129.8	95.1	—	4.9	—	9.63	375.09	499.97	4	4	4	6
117.6	427.9	—	—	—	—	9.16	10.52	4	4	4	4
123.0	92.9	—	7.1	—	0.28	8.92	12.26	4	4	4	4
103.2	82.8	—	17.2	—	1.33	13.79	21.03	4	6.3	4	6
122.0	115.5	—	—	—	—	64.15	92.38	4	4	4	4
223.5	101.7	—	—	—	—	72.98	99.24	4	4	4	4
136.6	79.1	—	20.8	—	1.50	17.35	17.23	4	8.7	4	15.5
88.5	72.2	11.5	27.8	2.41	11.67	49.32	66.73	4.9	17.5	6.9	17.5
136.0	83.5	—	16.5	—	15.16	30.44	42.88	4	20	14	25.6
126.1	104.6	—	—	—	—	5.10	7.41	4	4	4	4
103.1	109.7	—	—	—	—	208.10	232.01	4	4	4	4
94.3	91.5	5.7	8.5	1.41	3.65	52.04	74.09	4	4.9	4	4
113.6	91.4	—	8.5	—	3.94	66.80	98.83	4	4	4	4
108.3	115.6	—	—	—	—	43.27	54.65	4	4	4	4
123.6	100.7	—	—	—	—	36.54	50.55	4	4	4	4
179.5	117.0	—	—	—	—	38.63	47.30	4	4	4	4
142.5	96.4	—	3.6	—	0.40	61.24	90.00	4	4	4	4
88.4	101.6	11.6	—	1.16	—	43.59	56.10	4	4	4	8.3
150.0	85.5	—	14.5	—	3.32	N.A.	17.90	4	18.5	—	20
94.8	91.7	5.2	8.3	0.44	1.15	44.91	53.85	4	4	4	8.3

— indicates nil or negligible.

\* percentage of gross profits.

£ Percentage of salaries and wages.

Name of the Company	Gross Profits in lakhs of Rs.		Depreciation £		Development Rebate £		Direct Taxes £		Return on capital £		Return on reserves £	
	1965	1970	% 1965	% 1970	% 1965	% 1970	% 1965	% 1970	% 1965	% 1970	% 1965	% 1970
	1	2	3	4	5	6	7	8	9	10	11	12
<b>Tea :</b>												
1. Brooke Bond . . .	315.23	653.39	3.8	5.3	0.7	0.8	60.9	48.8	4.5	8.7	10.7	6.2
2. Assam Brooke . . .	12.62	14.93	24.5	44.7	5.4	10.9	39.9	24.6	39.1	33.0	7.4	7.1
3. Twyford . . .	4.57	4.41	18.8	21.0	3.7	10.4	42.6	37.9	29.3	37.9	23.9	15.6
4. Amalgamated . . .	9.60	10.91	27.6	25.5	5.3	—	41.9	50.1	79.8	48.8	—	—
5. Madras Tea Est. (P) .	1.40	14.54	155.7	19.3	17.9	3.8	—	42.3	—	—	337.9	67.5
6. Tea Estates India (P) .	32.44	50.74	13.7	9.7	2.0	3.2	39.2	42.7	13.1	8.4	20.3	38.2
7. Stanmore Est. (P) .	16.88	31.93	7.8	8.3	2.0	1.9	47.8	50.5	—	—	33.9	38.4
8. Travancore . . .	47.99	29.22	13.2	34.2	1.3	2.7	52.8	48.5	18.7	31.9	—	—
9. Peermedu . . .	13.66	11.12	13.1	19.0	5.1	1.0	41.7	46.3	11.9	17.2	7.4	7.7
10. Churakulam . . .	2.69	2.55	13.4	17.3	1.5	—	40.5	39.6	46.1	49.0	101.5	109.4
11. Chandramalai . . .	0.24	0.38	129.2	210.5	—	—	—	—	—	—	—	—
12. Tezpore . . .	15.10	13.77	13.6	19.8	3.2	4.2	47.3	43.6	12.4	13.6	10.2	14.5
13. Doolahat . . .	10.03	2.11	12.0	64.5	—	6.2	56.3	19.0	45.6	320.9	—	—
14. Vaghamon . . .	2.82	3.78	17.7	27.5	11.3	17.7	36.9	39.7	24.1	24.3	17.7	11.1
15. Kannandevan . . .	38.02	61.02	49.3	29.7	0.4	0.3	29.7	51.1	152.3	82.9	—	—
16. Bombay Burma . . .	45.02	35.80	32.4	49.7	1.0	9.9	44.8	44.6	50.7	87.5	41.0	35.0
17. Anglo American . . .	21.09	30.19	24.5	19.2	5.6	5.8	49.3	49.0	84.2	56.3	—	—
सन्दर्भ जपने												
<b>Engineering :</b>												
1. Mukand Iron . . .	74.31	135.89	40.7	46.8	79.2	3.2	—	27.5	29.3	19.8	—	—
2. Indian Tube . . .	372.42	730.86*	13.1	17.7	0.5	2.2	53.2	48.1	18.4†	11.6	N.A.	3.7
3. Sayaji Iron (P) . . .	7.71	3.98	15.0	30.7	7.7	2.3	46.3	33.2	18.4	74.6	5.1	—
4. G.K.W. . . .	549.38	980.02	17.6	16.4	3.5	0.4	47.9	48.4	9.8	5.5	6.8	6.5
5. Bharat Radiators (P) .	4.74	3.91	20.7	28.2	—	2.0	43.7	38.4	5.5	15.2	6.3	7.3
6. Mahindra & Mahindra	121.91	138.14	23.3	34.0	1.9	13.0	41.2	29.2	22.1	22.4	10.8	8.5
7. Metal Box . . . .	314.23	278.92	11.2	24.0	3.6	4.2	54.3	39.5	9.2	20.8	6.1	6.1
8. Khira Steel (P) . . .	5.68	7.52	26.9	28.1	—	—	40.1	29.5	11.3	18.6	9.7	5.7
9. Philips India . . . .	314.79	834.55	12.6	13.8	5.3	2.8	53.4	52.3	5.9	3.7	2.6	3.9
10. Ruston & Hornsby . . .	58.20	62.22	11.2	18.6	1.7	6.1	56.6	36.1	10.3	9.6	2.3	13.4
11. David Brown . . . .	18.40	44.13	23.7	18.5	5.5	6.8	33.6	45.3	16.6	12.1	5.9	6.4
12. Telco . . . .	936.00	1321.00	43.9	52.2	12.3	10.1	24.8	20.5	1.9	11.2	4.2	6.1

— Indicates nil or negligible.

£Percentage of gross profits.

\*Relating to 15 months.

†Including return on reserves.

Total Deductions and prior Charges £	Available surplus £		Allocable surplus in lakhs of Rs.		Salaries and wages in lakhs of Rs.		Rate of bonus as per formula \$		Rate of bonus actually paid \$		
	1965	1970	1965	1970	1965	1970	1965	1970	1965	1970	
	13	14	15	16	17	18	19	20	21	22	23
80.6	69.8	19.3	30.2	36.55	118.31	274.15	471.15	13.3	20	18.5	20
116.3	120.3	—	—	—	—	26.07	34.50	4	4	4	4
118.3	122.8	—	—	—	—	6.31	9.14	4	4	9*/13.8@ 9.5*/11.0@	9.5*/11.0@
154.6	124.4	—	—	—	—	17.66	22.23	4	4	10.1	10.1
511.5	132.9	—	—	—	—	11.12	18.76	4	4	10.8	10.0
88.3	102.2	11.7	—	2.29	—	39.14	50.55	5.9	4	11.4	10.7
91.3	99.1	8.5	0.9	0.96	0.18	14.78	22.36	6.5	4	10.9	10.2
86.0	117.3	14.0	—	4.51	—	39.73	48.07	11.4	4	14.0	12.1
79.2	91.2	20.8	8.9	1.63	0.60	13.38	18.77	12.2	4	10.9	11.0
203.0	215.3	—	—	—	—	3.34	4.20	4	4	4	4
129.2	210.5	—	—	—	—	2.63	4.14	4	4	9	9.5
86.7	95.7	13.4	4.2	1.21	0.35	18.85	23.26	6.4	4	6.5	4.2
13.9	410.6	—	—	—	—	11.56	14.39	4	4	4	4
107.7	120.3	—	—	—	—	4.51	7.70	4	4	11.3	—
231.7	164.0	—	—	—	—	146.20	181.20	4	4	9.9	10.4
169.9	226.7	—	—	—	—	78.65	96.57	4	4	10.8	11.4
163.6	130.3	—	—	—	—	46.95	54.78	4	4	10.7	10.1
सत्यमेव जयते											
149.2	97.3	—	2.7	—	2.23	147.89	185.14	4	4	15	18
85.2	63.3	14.8	16.7	33.13	73.43	84.64	198.34	20	20	20	20
92.2	140.8	7.8	—	0.35	—	8.41	10.05	4.2	4	12.3	6
85.6	77.2	14.1	22.8	47.47	132.62	253.79	400.31	18.7	20	20	20
76.2	91.1	24.0	8.9	0.69	0.21	2.80	4.76	20	4.4	20	7.8
99.3	107.1	0.6	—	0.41	—	N.A.	253.30	4	4	4	10
84.4	94.6	15.6	5.4	29.42	9.01	249.05	406.80	11.8	4	12.8	11.7
88.0	81.9	12.0	18.1	0.41	0.81	11.72	11.89	4	4	12.5	12
79.5	76.5	20.5	23.5	37.86	118.21	132.55	285.20	20	20	20	20
82.1	83.8	17.9	16.2	6.23	6.06	28.98	51.66	20	11.7	15	18.8
85.3	89.1	14.7	10.8	1.62	2.87	5.10	12.47	20	20	20	20
97.1	100.1	2.9	—	16.00	—	472.20	961.65	4	4	13.8	10.4

—Indicates nil or negligible.

£ Percentage of gross profits.

\$Percentage of Salaries and Wages.

\* For labour

@ For staff

Name of the Company	Gross Profits in lakhs of Rs.		Depreciation £		Development Rebate £		Direct Taxes £		Return on Capital £		Return on Reserves £		
			1965	1970	%	1965	1970	%	1965	1970	%	1965	1970
			1	2	3	4	5	6	7	8	9	10	11
													12
<i>Electricity:</i>													
1. Calcutta Electric	.	611.45	456.42	34.2	59.6	7.6	8.8	35.8	5.6	9.2	18.8	51.6	26.5
2. Bombay Suburban	.	95.11	223.03	44.5	33.7	30.1	6.2	13.2	28.8	21.3	14.0	14.5	12.9
3. Dishergadh Power	.	26.79	26.25	28.9	36.4	13.7	4.2	26.2	31.5	20.2	29.9	11.8	11.7
4. Patna Electric	.	22.41	31.58	56.1	33.0	18.3	11.4	14.1	30.7	13.3	9.4	15.3	14.9
5. Thanjavur Electric	.	6.71	34.08	53.5	55.3	89.6	8.8	—	—	13.9	15.1	16.7	13.6
6. Tata Hydro	.	516.00	720.00	75.4	48.9	33.1	16.0	—	19.3	20.5	18.1	21.7	13.7
7. Salem Erode	.	14.79	20.39	83.4	47.6	19.7	17.9	16.3	16.3	7.4	27.2	23.7	25.9
8. Tirunelveli Tuticorin	.	11.95	15.70	65.1	33.7	13.2	12.5	12.1	29.6	10.0	10.3	20.6	19.7
9. Associated Power	.	21.13	23.93	15.9	21.6	14.4	5.7	34.8	38.8	—	—	12.8	8.9
10. Amalgamated	.	40.95	47.01	44.3	37.3	11.6	13.1	24.4	27.2	29.2	28.3	10.1	11.6
<i>Sugar:</i>													
1. Phalton	.	31.96	26.66	30.2	65.0	2.4	13.7	37.0	11.7	13.3	15.9	14.2	20.0
2. New India	.	33.38	13.12	7.9	24.8	0.2	0.2	58.7	41.2	3.8	14.9	8.2	33.9
3. Shree Changdeo	.	25.76	46.91	10.4	3.8	11.3	—	39.4	46.7	12.4	13.6	13.8	4.5
4. Upper Doab	.	38.70	69.69	38.0	26.8	5.9	5.5	32.3	40.6	14.4	12.4*	7.3	N.A.
5. Ganga	.	40.46	18.44	19.7	132.1	8.1	27.6	38.1	134.2	7.2	48.2	—	—
6. Brihan Maharashtra	.	33.58	27.77	21.6	31.3	7.5	9.1	21.7	26.3	6.0	7.3	12.1	16.5
7. Jagatjit	.	8.26	17.90	16.3	10.6	0.2	0.2	45.9	44.5	11.4	5.3	30.7	11.0
8. Saraswati	.	53.87	49.77	30.3	42.4	2.5	8.2	34.5	25.8	3.9	8.6	5.6	7.4

— Indicates nil or negligible.

\* Including return on reserves.

£ Percentage of gross profits.

Total Deductions and prior charges £	Available surplus £		Allocable surplus in lakhs of Rs.		Salaries and wages in lakhs of Rs.		Rate of bonus as per formulas		Rates of bonus actually paid \$							
	%	%	%	%	1965	1970	1965	1970	%	%						
	1965	1970	1965	1970	13	14	15	16	17	18	19	20	21	22	23	24
138.4	119.3	—	—	—	—	—	256.30	434.00	4	4	8.5	7				
123.6	95.6	—	4.4	--	9.83	53.83	82.70	4	11.9	2 months' basic salary or 4% of basic salary + D.A. whichever is higher.						
100.8	113.7	—	—	—	—	—	7.85	12.47	4	4	3 months' basic pay.					
117.1	99.4	—	0.6	—	0.23	14.37	19.72	4	4	3 months' basic salary.						
173.7	92.8	—	7.2	—	1.48	9.30	19.64	4	7.5	4% total salary or 3 months' basic salary whichever is higher.						
150.7	116.0	—	—	—	—	—	116.00	231.00	4	4	17	17				
134.2	114.9	—	--	—	—	—	7.24	12.15	4	4	3 months' basic salary/wages.					
121.0	105.0	—	—	—	—	—	5.46	7.90	4	4	3 months basic pay					
77.9	75.0	22.1	25.0	2.80	3.58	5.51	10.71	20	20	20	3 months' basic salary.					
119.6	117.5	—	—	—	—	—	31.76	43.99	4	4	5	4				
97.1	126.3	2.8	—	0.54	—	13.00	19.47	4	4	7	15					
78.8	114.8	21.2	—	4.22	—	9.13	13.05	20	4	20	14.4					
77.3	68.6	22.6	31.5	3.50	8.86	7.18	12.78	20	20	20	20					
97.9	85.3	2.1	14.7	0.44	6.16	21.50	42.62	4	14.5	5	20					
72.9	342.1	27.1	—	6.58	—	13.62	14.34	20	4	20	20					
68.9	90.5	31.1	9.5	6.27	1.58	27.32	21.50	20	7.3	13.6	20					
104.5	71.6	—	28.4	—	3.05	8.60	14.21	4	20	4	15					
76.8	92.4	23.2	7.7	7.58	2.29	20.38	39.17	20	5.8	20	20					

— Indicates nil or negligible.

£ Percentage of gross profits.

\$ Percentage of Salaries and wages.

Name of the Company	Gross Profits in lakhs of Rs.		Depreciation £		Development Rebate £		Direct Taxes £		Return on Capital £		Return on Reserves £	
	1965	1970	%	%	%	%	%	%	%	%	%	%
	1	2	3	4	5	6	7	8	9	10	11	12
<b>Chemicals:</b>												
1. Cellulose Products (Kathwada Factory)	27.30	45.21	26.3	19.8	9.5	1.2	35.3	43.4	14.4	10.1	3.4	5.2
2. Hind. Lever	573.16	731.41	13.9	14.8	3.0	2.2	51.7	41.6	12.3	13.4	6.1	7.6
3. Industrial Perfumes	6.97	17.00	29.1	24.2	6.0	1.9	35.6	44.3	20.7	8.5	5.0	5.2
4. Atul Products	143.82	261.52	51.9	49.9	32.1	7.6	4.4	16.6	15.2	13.3	8.1	6.1
5. Drangadhra	18.25	25.91	43.6	70.5	8.4	12.8	27.2	9.1	10.0	8.5	16.9	14.6
6. Anil Starch	70.77	23.89	32.9	136.3	7.6	—	38.5	—	5.3	28.0	4.9	27.8
7. Adarsh Chemicals	16.71	17.08	39.3	25.6	29.3	5.0	17.3	38.2	20.0	15.7	1.1	11.0
<b>Jute :</b>												
1. Anglo India	43.66	88.59	45.6	34.3	4.5	1.5	26.4	35.3	11.5	5.7	17.5	8.5
2. Auckland	17.55	11.23	65.3	198.9	10.5	76.6	—	—	28.4	44.4	14.7	26.5
3. Samnuggur	28.46	80.54	48.1	10.4	17.4	2.4	2.9	61.0	—	—	60.7	19.5
4. Angus	38.75	70.73	32.6	16.9	14.5	5.8	20.0	42.5	30.7	18.0	—	—
5. Titaghur	12.58	68.45	147.7	38.3	33.6	5.8	—	—	—	—	119.7	25.3
<b>Iron &amp; Steel :</b>												
TISCO	2975.00	3227.00	35.1	38.7	7.4	12.7	32.2	26.5	10.7	12.8	9.2	8.8
<b>Cement :</b>												
1. A.C.C.	737.62	1339.38	40.8	57.0	15.2	33.2	24.1	5.3	21.6	18.0	8.5	6.8
2. Orissa Cement :												
(a) Cement Works	92.43	119.76	15.4	10.3	2.5	2.5	52.8	48.9	11.3+	15.9+	N.A.	N.A.
(b) Refractory Works	54.17	190.62	45.1	11.9	7.3	2.6	25.7	50.9	35.4+	12.1+	N.A.	N.A.
(c) Cement Products	4.22	5.03	5.4	4.0	3.8	0.3	50.2	52.7	9.9+	26.0+	N.A.	N.A.

+Including return on reserves.

— Indicates nil or negligible.

£ Percentage of gross profits.

Total Deductions and prior charges £		Available surplus £		Allocable surplus in lakhs of Rs.		Salaries & wages in lakhs of Rs.		Rate of bonus as per formula \$		Rate of bonus actually paid \$	
% 1965	% 1970	% 1965	% 1970	1965	1970	1965	1970	% 1965	% 1970	% 1965	% 1970
13	14	15	16	17	18	19	20	21	22	23	24
88.9	79.7	11.2	20.2	1.83	5.49	5.26	11.47	20	20	20	20
87.0	79.6	13.0	20.4	44.86	89.45	314.72	415.35	14.3	20	14.3	20
96.4	84.1	3.5	15.9	0.15	1.63	3.83	7.37	4	20	4	20
111.6	93.5	—	6.5	—	10.20	36.52	71.88	4	14.2	4	17
106.1	115.5	—	—	—	—	31.34	37.27	4	4	4	4
89.2	122.1	10.9	--	4.63	—	24.00	36.80	19.3	4	20	4
107.0	95.5	—	4.5	—	0.45	3.00	5.40	4	8.3	4	15.9
105.5	85.3	—	14.6	—	7.75	118.30	180.52	4	4	4	6.5
118.9	346.4	—	--	—	—	60.24	74.22	4	4	4	6
129.1	93.3	—	6.7	—	3.24	76.97	117.10	4	4	4	6.5
97.8	83.2	2.2	16.8	0.52	7.12	72.18	106.14	4	6.7	4	6.5
306.0	107.0	—	--	—	—	100.28	151.53	4	4	4	6.5
94.6	99.5	5.1	0.5	97.00	9.60	1461.00	1994.00	6.6	4	12.7	10
110.2	120.3	--	—	—	--	564.45	955.66	4	4	15	8
82.0	77.6	17.9	22.4	9.91	16.13	33.61	39.08	20	20	20	20
113.5	77.6	—	22.4	—	25.67	23.20	32.92	4	20	4	20
69.3	83.0	50.7	17.0	0.52	0.51	1.65	2.26	20	20	20	20

—Indicates nil or negligible.

£ Percentage of gross profits.

\$ Percentage of salaries and wages.

Name of the Company	Gross Profits in lakhs of Rs.		Depreciation <sup>f</sup>		Development Rebate <sup>f</sup>		Direct Taxes <sup>f</sup>		Return on Capital <sup>f</sup>		Return on Reserves <sup>f</sup>	
	1965	1970	% 1965	% 1970	% 1965	% 1970	% 1965	% 1970	% 1965	% 1970	% 1965	% 1970
	1	2	3	4	5	6	7	8	9	10	11	12
<i>Mining :</i>												
Bikaner Gypsum . . .	7.35	14.30	25.7	29.0	3.5	8.9	27.2	27.0	11.6	14.3	11.2	3.6
<i>Rubber :</i>												
Pullangode . . .	5.75	4.45	4.3	5.2	—	—	45.9	52.1	25.9	33.5	7.0	6.3
<i>Coffee :</i>												
1. Consolidated . . .	74.79	142.20	9.1	7.5	0.2	0.6	52.7	53.9	9.7	11.5	8.9	6.6
2. Kumargode . . .	1.90	3.26	12.1	6.7	—	—	33.7	40.2	26.8	15.6	10.0	9.8
<i>Paper :</i>												
Jayant . . . .	9.67	22.56	44.3	25.1	4.6	4.6	28.1	35.6	21.8	9.4	4.3	5.1
<i>Silk &amp; Rayon :</i>												
National Rayon . . .	368.95	619.19	33.0	20.3	4.5	2.8	36.8	42.1	8.7	6.0	4.4	4.4
<i>Miscellaneous :</i>												
1. Castrol . . .	53.32	50.76	5.6	5.8	0.4	—	56.6	58.7	28.6	24.1	—	—
2. Hogli Ink . . .	2.97	4.03	3.7	13.4	—	—	50.5	47.4	10.1	14.9	6.4	7.7
3. Aspin Wall . . .	3.58	5.28	21.2	17.0	4.2	—	37.7	43.5	89.1	60.4	19.0	16.5
4. Indian Yeast . . .	10.85	21.69	38.0	14.9	36.0	—	14.3	51.1	15.7	11.3	—	4.3
5. Belphar Refractories	125.94	195.03	25.8	12.1	2.2	2.3	29.6	49.9	23.6	15.3	5.4	4.9

—Indicates nil or negligible.

<sup>f</sup> Percentage of gross profits.

Total Deductions and prior charges <sup>z</sup>		Available surplus£		Allocable surplus in lakhs of Rs.		Salaries & wages in lakhs of Rs.		Rate of bonus as per formula\$		Rate of bonus actually paid\$	
% 1965	% 1970	% 1965	% 1970	% 1965	% 1970	% 1965	% 1970	% 1965	% 1970	% 1965	% 1970
13	14	15	16	17	18	19	20	21	22	23	24
79.0	82.7	21.0	17.3	0.92	1.48	10.52	17.77	8.7	8.3	8.1	8
83.1	97.1	16.9	2.9	0.58	0.00	3.35	7.48	17.3	4	14.9	15.1
80.6	80.1	19.3	19.8	8.66	16.91	20.24	47.23	20	20	15.2	10.4
82.6	72.3	17.4	27.7	0.20	0.55	1.04	1.75	19.2	20	6.5	11.5
103.1	79.8	—	20.2	—	2.73	2.86	5.43	4	20	4	20
87.4	75.6	12.6	24.5	27.79	90.86	140.61	260.16	20	20	20	20
91.3	83.6	8.6	11.3	3.09	3.85	14.34	22.64	20	17	20	20
70.7	83.4	29.3	16.6	0.52	0.40	1.44	2.37	20	16.9	20	20
171.2	137.4	—	—	—	—	13.81	15.55	4	4	7.8	8.4
104.0	81.7	—	18.3	0.59*	2.38	2.78	5.75	28	20	20	20
96.6	84.5	3.4	15.6	2.55	18.25	24.44	45.21	10.	—	12.	20

\*Calculated under Section 34(2).

— Indicates nil or negligible.

£ Percentage of gross profits.

\$ Percentage of Salaries and Wages.

**PUBLIC SECTOR***Statement showing gross profits and percentage to gross profits of various items of deductions and prior*

Name of the Company	Gross Profits in lakhs of Rs.		Depreciation £		Development Rebate £		Direct Taxes £		Return on Capital £		Return on Reserves £	
	1965	1970	%	%	%	%	%	%	%	%	%	%
			1965	1970	1965	1970	1965	1970	1965	1970	1965	1970
	1	2	3	4	5	6	7	8	9	10	11	12
1. Bharat Earthmovers	60.30	571.89	35.7	25.8	5.0	9.7	29.7	35.5	92.5	17.7	1.2	4.3
2. Singareni Collieries	179.04	90.58	63.0	197.3	35.3	25.0	—	—	26.5	63.7	6.2	12.8
3. Hindustan Steel Works Construction	139.54	123.52	7.1	20.3	17.6	3.3	53.4	55.6	0.3	1.6	—	4.1
4. H.M.T. (Watch Factory Bangalore)	85.51	219.18	17.8	6.1	3.4	—	49.0	60.3	17.4	6.8	—	—
5. Bharat Electronics	243.91	703.12	20.5	22.9	5.1	5.6	42.4	35.9	18.2	6.3	2.8	7.5
6. Hind. Shipyard	22.87	34.87	72.8	62.8	—	14.3	—	—	222.4	158.3	—	2.0
7. Fertiliser Corp.	552.03	1438.15	156.5	73.6	154.8	3.3	—	—	74.0	54.8	13.0	6.9
8. Maharashtra State Road Transport Cor- poration	675.93	587.97	35.6	97.7	—	0.4	34.8	—	14.1	21.6	9.2	12.1
9. Indian Telephones	285.44	517.31	19.2	14.2	6.7	0.9	49.6	42.5	13.2	8.1	4.4	8.5
10. Food Corporation	44.97	625.72	65.3	42.5	—	0.6	27.8	20.8	50.2	26.8	6.7	36.4
11. Indo Burma	36.23	68.91	16.4	12.7	3.0	2.8	35.8	44.3	28.0	14.6	21.7	10.9
12. National Seeds	15.29	10.68	11.6	63.4	12.2	—	24.9	—	11.1	151.2	0.4	3.7
13. Praga Tools	28.03	9.71	52.8	447.4	27.4	36.7	—	—	45.7	214.9	2.8	7.2
14. N.C.D.C.	231.09	290.32	91.8	195.3	—	—	—	—	199.6	313.0	5.9	2.8
15. Air India	481.11	724.90	79.7	138.3	3.6	43.7	29.9	—	23.1	31.4	11.7	20.8
16. Hindustan Steel	6076.00	6305.20	103.9	112.3	14.9	7.7	—	—	13.9	75.1	—	—
17. Indian Airlines	392.18	670.37	63.6	100.7	11.4	16.8	—	—	47.6	37.3	4.9	3.7
18. Mysore Iron	120.35	170.44	63.9	374.0	18.3	5.4	—	—	28.3	19.9	5.7	8.8
19. United Electrical	1.45	5.66	57.2	24.2	12.4	2.1	6.9	80.4	110.3	58.9	22.1	14.0
20. S.T.C.	425.54	1239.45	0.3	0.6	—	—	62.3	60.9	4.0	1.4	14.9	5.7
21. Hindustan Hsg. Factory	20.38	29.58	18.9	14.2	0.9	1.7	44.2	46.5	20.4	14.1	3.6	5.4
22. H.A.L.	306.23	980.06	57.5	99.4	29.4	24.3	7.2	—	74.5	41.6	13.6	10.4

--- indicates nil or negligible

£ percentage of gross profits.

**COMPANIES**

*charges, allocable surplus, rates of bonus payable as per Payment of Bonus Act and actually paid*

Total deductions and prior charges£		Available surplus £		Allocable surplus in lakhs of Rs.		Salaries and wages in lakhs of Rs.		Rate of bonus as per formula\$		Rate of bonus actually paid\$	
% 1965	% 1970	% 1965	% 1970	1965	1970	1965	1970	% 1965	% 1970	% 1965	% 1970
13	14	15	16	17	18	19	20	21	22	23	24
164.2	93.0	—	7.1	—	24.26	101.14	259.58	4	9.3	4	12
131.7	298.8	—	—	—	—	492.00	759.00	4	4	4	5
78.4	84.9	21.6	15.1	18.09	11.20	1.44	100.48	20	11.1	20	20
87.6	73.2	12.5	26.8	6.40	35.28	19.44	48.15	20	20	20	20
89.0	78.2	11.0	21.8	16.37	91.39	147.25	462.29	11.1	19.8	20	20
295.2	237.4	—	—	—	—	133.72	244.22	4	4	4	4
398.3	138.7	—	—	—	—	355.80	826.20	4	4	4	4
93.7	131.8	6.3	—	24.87	—	567.00	1256.64	4.4	4	16	4
93.1	74.2	6.9	25.8	11.83	80.04	260.92	505.30	4.5	15.8	4.5	15.8
150.0	127.1	—	—	—	—	N.A.	1026.49	4	4	N.A.	8.3
104.9	85.3	—	14.7	—	6.82	20.51	28.12	4	20	9.4	11.6
60.2	218.3	39.8	—	3.65	—	11.64	65.89	20	4	12.1	5.5
128.7	706.2	—	—	—	—	40.55	68.46	4	4	4	5
297.3	511.1	—	—	—	—	N.A.	N.A.	4	4	4	4
148.6	234.2	—	—	—	—	N.A.	N.A.	4	4	4	8.3
192.7	195.1	—	—	—	—	N.A.	N.A.	4	4	4	4
127.5	158.5	—	—	—	—	N.A.	N.A.	4	4	4	4
146.2	488.1	—	—	—	—	183.25	366.59	4	4	9.1	4
208.9	159.6	—	—	—	—	4.96	12.11	4	4	6.5	10.8
81.5	68.6	18.5	31.4	47.17	233.45	57.72	117.45	20	20	20	20
88.0	81.9	12.1	18.2	1.48	3.67	31.40	37.46	4	9.0	4	7.4
182.2	176.2	—	—	—	—	544.28	1426.14	4	4	4	4

— indicates nil or negligible

£ percentage of gross profits.

\$ percentage of Salaries and Wages.

*Bonus payment by public*

Sl. No.	Name of Undertaking	1969-70						
		Net Profit or Loss	Available Surplus	Allocable Surplus	Bonus Payable\$		Bonus Paid\$	
					%	Amount	%	Amount
		1	2	3	4	5	6	7
<b>I. Undertakings paying bonus more than 8-1/3%</b>								
1. Bharat Electronics	.	250.8	105.5	63.3	20	70.0	20	70.0
2. Hindustan Teleprinters	.	66.5	55.7	33.4	20	8.00	20	8.0
3. Instrumentation	.	12.3	Nil	Nil	4			
4. Bharat Heavy Electricals (Trichy Unit)	.	219.0	(—)77.0	Nil	4	9.0		9.0
5. H. M. T. Watch Factory	.	171.7	46.3	27.8	20	9.1	20	9.1
6. Hindustan Insecticides	.	(—)15.5	(—)55.0	Nil	4	1.4	7½	2.5
7. Indian Rare Earths	.	39.7	8.2	4.9	12.2	4.9	20	8.2
8. Indian Oil Corporation (1)	.	2040.6	Not computed				20	156.4
9. Cochin Refineries	.	247.6	(—)76.8	—	4	0.9	19	4.3
10. Lubrizol India	.	18.6	Not computed					0.02
11. Indo-Burmah Petroleum	.	32.5	0.06	0.04	4	1.0	9	2.3
12. Moghul Lines	.	39.9	(—)39.6	Nil	4	0.3	20	1.5
13. State Trading Corporation	.	1098.4	1005.5	603.3	20	17.8	20	17.8
14. M.M.T.C.	.	60.3	Not computed	—	20	17.8	20	17.8
15. Cashew Corporation (2)	.	—	—	—	—	—	—	—
16. Hindustan Steel Works Construction Corpn.	.	9	4.1	*			20	11.0
17. Engineers India	.	43.6	18.0	10.8	20	6.2	20	6.2
18. N.I.D.C.	.	18.1	7.9	4.7	20	3.3	20	3.3
19. N.R.D.C.	.	Loss	—	Nil	4	0.05	4	0.05
20. Shipping Corpn. of India	.	551.4	*	*	*		20	N.A.
21. Bharat Earth Movers	.	204.5	6.3	3.8	4	8.4	7	15.4
22. Hindustan Antibiotics	.	44.1	(—)11.2	Nil	4	1.0	9.0	2.3
23. Hindustan Housing Factory	.	9.3	6.1	3.7	7.4	2.4	7.4	2.4
24. Hindustan Cables	.	1.1	(—)32.7	Nil	4		9	N.A.
25. O.N.G.C.	.	1070.0	—	—	4	32.0	10	80.0

(1) Bonus fixed on the basis of agreement at various units or on *ad hoc* basis.

(2) Incorporated in 1970-71.

\$Percentage of Salaries and Wages.

## sector undertakings

(Amount in lakhs of Rs.)

Net Profit or loss	Available Surplus	Allocable Surplus	1970-71				Remarks	
			Bonus Payable\$		Bonus Paid\$			
			%	Amount	%	Amount		
8	9	10	11	12	13	14	15	
260.8	145.7	87.7	20	79.2	20	79.2		
53.8	48.6	29.1	20	8.9	20	8.9		
155.0	Nil	Nil.	4	2.0	14	6.9		
541.0	115.0	69.0	20	52.0	20	52.0		
189.4	58.8	35.3	20	9.6	20	9.6		
13.4	(—)17.8	Nil	4	1.3	14	4.6		
36.7	3.5	2.1	4	2.0	20	10.5		
1576.9	Not computed				20	155.0		
249.1	(—)55.9	Nil	4	1.0	19.5	4.9		
32.3	Not computed				20	0.5		
53.8	10.6	6.4	9.8	2.8	11.6	3.3		
48.4	(—)32.0	Nil	4	0.3	20	1.5		
642.8	383.3	229.9	20	19.5	20	19.5		
167.5	54.9	32.9	20	22.4	20	22.4		
73.7	20.8	12.5	20	0.1	20	0.1		
14.6	18.7	11.2	*		20	16.8	*Negotiated settlement under Sec. 34 (3).	
69.4	27.9	16.7	20	8.2	20	8.2		
16.3	7.0	4.2	20	3.6	20	3.6		
4.3	1.5	0.9	20	0.3	20	0.3		
690.6	*	*			20	29.9	*Bonus Act does not apply vide Sec. 32 (viii)	
298.4	45.0	27.0	5.8	14.6	12	29.8	(b) by virtue of agreement with staff unions.	
12.5	(—)41.5	Nil	4	4.2	11.96	12.3		
5.6	5.3	3.2	9.0	3.3	9.0	3.2		
2.1	(—)41.5	Nil	4	N.A.	9	7.2		
922.0	—	—	4	33.0	10	0.88		

(1) Bonus fixed on the basis of agreement at various units or on *ad hoc* basis.

(2) Incorporated in 1970-71.

\$Percentage of Salaries and Wages.

1969-70

Sl. No.	Name of the undertaking	Net Profit or Loss	Available Surplus	Allocable Surplus	Bonus Payable\$		Bonus Paid\$	
					%	Amount	%	Amount
1	2	3	4	5	6	7		
26. Indian Telephone Industries		149.8	68.6 27.2	57.5	11.7	57.3	11.7	57.3
27. Central Warehousing Corpn.		35.7	Nil	Nil	4	2.8	4/6	7.0
28. India Tourism Dev. Corpn.		3.0	(—)12.3	Nil	4	0.5	5	0.6
<b>II. Undertakings paying 8-1/3% and less :</b>								
29. Goa Shipyard		3.7	Nil	Nil	4	0.6	4	0.6
30. Hindustan Aeronautics		383.9	(—)941.1	Nil	4	53.7	4	53.7
31. Mazagon Dock		55.2	Nil	Nil	4	10.2	8-1/3	21.7
32. Food Corporation		255.2	Nil	Nil	4	39.0	9	87.8
33. National Seeds Corporation		0.3	Nil	Nil	4	1.9	4	1.9
34. Housing & Urban Dev. Corpn.		—	—	—	—	—	—	—
35. National Newsprint & Paper Mills		Loss	Nil	Nil	—	—	—	—
36. Water & Power Dev. consultancy Services		Loss	Nil	Nil	—	—	—	—
37. Fertiliser Corpn. of India*		106.9	(—)1466.5	Nil	4	17.0	*	26.92
38. Sambhar Salts		Not available		—	—	—	—	—
39. Tungabhadra Steel Products		3.7	(—)9.9	Nil	4	1.0	4	1.0
40. Madras Refineries		(—)367.3	—	N.A.	—	—	—	—
41. Hindustan Latex		2.9	—	—	—	—	—	—
42. Hindustan Steel		—	—	—	—	—	—	—
(a) Rourkela Steel Plant		+	783.0	(—) 2421.0	Nil	4	44.2	
(b) Rourkela Fert. Plant		+	163.0	— 224.6	Nil	4	2.3	
(c) Bhilai Steel Plant		+	364.6	— 1546.6	Nil	4	59.7	
(d) Durgapur Steel Plant		—	1550.5	— 3095.4	Nil	4	39.4	
(e) Central Coal Washeries		—	37.4	— 175.0	Nil	4	3.0	
(f) Alloy Steels Plant		—	577.6	— 1579.2	Nil	4	Nil	
(g) Head Office, CEDB etc.		—	1047.3	— 9003.5	Nil	4	4.2	
43. Praga Tools		—	Loss	Nil	Nil	4	1.7	
44. Central Fisheries		—	Loss	Nil	Nil	—	Nil	Nil
45. Indian Motion Pictures Export Corporation		—	2.0	Nil	Nil	4	0.2	0.3
46. N.B.C.C.		—	19.9	Nil	Nil	4	1.7	4
47. Heavy Electricals (India) Ltd.		—	775.6	— 1282.6	Nil	4	—	1.7
48. Hindustan Photo Films		—	203.9	Nil	Nil	4	2.0	4
49. Hindustan Salts		—	Not available	—	—	—	—	—
50. National Instruments		—	124.4	Nil	Nil	4	1.7	4
51. National Small Industries Corpn.		—	10.5	Nil	Nil	4	—	1.7
52. N.P.C.C.		—	100.2	—	—	—	—	3.0
53. F.A.C.T.		—	167.1	Nil	Nil	—	—	—
54. I.D.P.L.		—	924.2	Bonus Holiday	—	—	—	—
55. Central Road Transport Corpn.		—	39.9	Nil	Nil	4	0.7	4
56. Heavy Engineering Corp.		—	1817.6	Nil	Nil	4	3.7	0.7
57. Mining & Allied Machinery Corp.		—	631.4	Nil	Nil	4	9.2	4
58. Hindustan Zinc		—	135.3	— 134.6	— 123.7	4	4.8	4
59. National Coal Dev. Corpn.		—	2.5	Nil	Nil	4	67.8	4
60. National Mineral Dev. Corpn.		—	48.3	Nil	Nil	—	—	N.A.

\*During 1969-70 bonus was paid on unit-wise basis. Nangal was paid 11%. Trombay & Gorakhpur were not entitled to statutory bonus.

\$Percentage of Salaries and Wages.

ANNEXURE III—(continued)  
(Amount in lakhs of Rs.)

Net Profit or Loss	1970-71								Remarks	
	Available		Allocable		Bonus Payable\$		Bonus Paid\$			
	Surplus	Surplus	%	Amount	%	Amount				
	8	9	10	11	12	13	14	15		
186.0	95.7 37.7		80.0	15.8	80.0	15.8	80.0			
93.7	Nil	Nil	4	3.6	4	6	8.9			
23.8	0.8	0.5	4	3.9 ITDC Ashoka Janpath & Ranjit Hotels } 20 ]	10 ]	18	16.4			
6.6	1.0	0.6	4	0.6	4	0.6				
469.0	—746.3	Nil	4	57.0	4	57.0				
57.9	Nil	Nil	4	12.6	8-1/3	26.8				
154.9	Nil	Nil	4	44.9	4	44.9	48.6	@Under Khadilkar Formula.		
0.2	Nil	Nil	4	1.7	4	1.7				
Loss	Nil	Nil	Nil	Nil			Nil			
Loss	Nil	Nil					4.6			
Loss	Nil	Nil								
256.2	(—)1062.0	Nil	4	27.8	4	27.8				
Loss	Nil	Nil	4	0.7	4	0.7				
1.2	(—)12.5	Nil	4	1.2	4	1.2				
469.8	Not available									
3.9	Nil	Nil	4	0.8	4	0.8				
—	1019.8 — 939.6	Nil	4	53.0						
—	259.6 — 457.1	Nil	4	2.9						
—	1104.3 — 343.2	Nil	4	70.4						
—	2040.1 — 3060.5	Nil	4	43.0						
—	2.0 — 178.1	Nil	4	4.0						
—	383.3 — 1002.8	Nil	4	8.6						
—	540.6 — 5996.8	Nil	4	5.3						
—	Loss	Nil	4	2.2	4	2.2	@Under Khadilkar 0.5@ formula.			
—	Loss	Nil	Nil	Nil			Nil			
—	3.7	Nil	4	0.1	8	0.2				
—	16.4	Nil	4	1.8	4	1.8				
—	578.2 — 1038.5	Nil	4	24.7	4	24.7				
—	299.1	Nil	4	2.6	4	2.6	@0.6 @Under Khadilkar formula.			
—	0.25	Nil	Nil	0.6	4	0.6				
—	108.2	Nil	4	1.7	4	1.7				
—	46.7	Nil	Nil		4	3.7				
—	131.6 — 188.1	Nil	4	2.2	4	2.2—@1% Under Khadilkar @0.6— formula.				
—	189.4	Nil	Nil				13.4			
—	799.2 Bonus Holiday									
—	23.4	Nil	Nil	0.8	4	0.8				
—	1443.1	Nil	Nil	29.3	4	0.8				
—	654.1	Nil	Nil	10.3	4	10.3				
—	117.7 — 169.0 —	113.2	4	5.0	4	5.0				
—	173.2	Nil	Nil	70.6	4	70.6	@Under Khadilkar 17.6 formula.			
—	359.6	Nil	Nil		1	1.9				

\$ Percentage of Salaries and Wages.

Sl. No.	Name of the Undertaking	1969-70						
		Net Profit or Loss	Available Surplus	Allocable Surplus	Bonus Payable		Bonus Paid	
					%	\$	%	\$
		1	2	3	4	5	6	7
61.	Neyveli Lignite Corporation . . .	—204.7	Nil	Nil	4	21.3	5	26.2
62.	Air India . . . . .	197.0	53.4	32.0	9.2	31.5	9.2	31.5
63.	Indian Airlines . . . . .	228.4	Nil	Nil	4	25.7	4	25.7
64.	Rehabilitation Industries Corpn. . .	—62.9	Nil	Nil	4	1.7	4	1.7
65.	Handicrafts & Handlooms Exports Corporation . . . . .	0.1	N.A.	N.A.		N.A.		N.A.
66.	Rural Electrification Corpn. . . . .	1.11	1.73	1.04	20	0.08	20	0.08
67.	Modern Bakeries:							
(a)	Kanpur . . . . .	..	..	..	..	..	..	..
(b)	Madras . . . . .	—4.3	..	..	..	..	..	..
68.	Garden Reach Workshops . . . . .	31.2	3.0	1.8	4	7.3	4+	17.8
69.	State Farms Corpn. . . . .	46.4	20.5	12.3			Rs. 90	4.7
70.	National Textile Corporation . . . . .	Loss	..	..	..	..	..	..

Source :—Supplied by Bureau of Public Enterprises during oral evidence on 20-4-1973.

\$ Percentage of Salaries and Wages.



## ANNEXURE III—(concl'd.)

(Amount in lakhs of Rs.)

1970-71								Remarks	
Net Profit or Loss	Available Surplus	Allocable Surplus	Bonus Payable		Bonus Paid				
			%	\$	Amount	%	\$		
8	9	10	11	12	13	14	15		
—1073.3	Nil	Nil	4	25.3	4 1	25.3 @6.4		@Under Khadiikar Formula.	
217.7	—964.9	Nil			4	15.2			
—467.6	Nil	Nil	4	25.7	4	25.7			
—62.6	Nil	Nil	4	1.8	4	1.8			
3.5	Nil	Nil	4	0.7	4	0.7			
10.68	Nil	Nil	4	0.13	4	0.13			
6.2	..	Nil	..	..	8-1/3	0.3			
2.1	..	Nil	..	..	4	0.1			
71.0	—14.3	Nil	4	8.0	4+	25.0			
					Rs. 150				
23.0	Nil	Nil	H.O. 8-1/3 Suratgarh 17 Hissar 20 Jullunder 8-1/3 }				5.7		
92.0	N.A.	N.A.	4	0.1	4	0.1			

Source :—Supplied by Bureau of Public Enterprises during oral evidence on 20-4-1973.

\* Percentage of Salaries and Wages.



CHAPTER VI  
REVIEW OF THE ECONOMY—III  
TRENDS IN REAL EARNINGS OF LABOUR

It is of interest for a review of the economic background to the problems before the Committee to observe the trends in real earnings of labour especially during the era of planned development and particularly since the Payment of Bonus Act was passed. The following table gives the index numbers of money earnings per worker and real earnings per worker derived from the former on the basis of the All-India Consumer Price Index Numbers : The series has been compiled using the data in "Census of Manufacturing Industries" from 1952 to 1958, and in "Annual Survey of Industries" from 1959 to 1968. Later data are not available for making the review more up-to-date.

*Index numbers of money earnings and real earnings  
1951 = 100*

Year	Index Nos. of money earnings* (1951=100) Rs. 1059	All-India average Consumer Price Index Nos. (1951=100)	Index numbers of real earnings per worker (1951=100)
1952 . . .	105.3	98.1	107.3
1953 . . .	108.8	101.0	107.7
1954 . . .	108.5	96.2	112.8
1955 . . .	109.4	91.4	120.0
1956 . . .	114.3	100.0	114.3
1957 . . .	119.5	105.7	113.1
1958 . . .	122.6	110.5	111.0
1959 . . .	123.4	115.2	107.1
1960 . . .	136.7	118.1	115.7
1961 . . .	145.3	120.0	121.1
1962 . . .	157.8	123.8	127.5
1963 . . .	166.2	127.6	130.3
1964 . . .	175.1	144.8	120.9
1965 . . .	194.2	158.1	122.8
1966 . . .	214.4	175.2	122.4
1967 . . .	236.8	199.0	119.0
1968 . . .	254.6	204.8	124.3

\*Money earnings comprise wages and money value of benefits and privileges.

6.2 The above table brings out that the 17 years covered here extending broadly over the period of the first three Plans and the Plan-interregnum before the Fourth Plan, comprised of four sub-periods of four years each : the first sub-period upto 1955, of stable or declining prices which was one of the best times for increase in the real earnings of workers ; the second period upto 1959 when prices rose steeply, by 26 per cent, and real earnings receded, by 11 per cent, with money earnings being unable to keep pace with rising (consumer) prices ; the third period upto 1963, when the pace of price rise declined and the growth of money earnings accelerated, with another phase of a good measure of increase in real earnings which climbed to their peak point at 130.3 in 1963 ; the fourth period of a relatively strong inflationary trend when the price rise again outstripped the increase of money-wages and real earnings slipped and then held up well with the price trend ; and finally a short leap in the last year included under review when real earnings made a swift and sharp recovery.

6.3 The first period of four years upto 1955, which was one of comparative price stability, was also unusually good from the point of view of improvement of real earnings of all workers, there having occurred an advance in these of 20 per cent; the increase resulted almost equally from a moderate rise in money earnings and a similar degree of decline in consumer prices. It remains one of the best periods for workers' real earnings, being matched only by the years from 1959 to 1963, when a rapid increase in money earnings occurred following steady pressures from 1956 onwards on the cost of living which were, however, contained by a good increase during these years in national output and the national income. On the whole, the behaviour of the various series during the planning era underlines the importance of a framework of comparative price stability for significant improvement of the real earnings of labour.

6.4 The total improvement in real earnings in seventeen years is by about one-quarter, and is, indeed, modest, being only about 1.25 per cent per annum at a compound rate. As such it is just comparable with the increase in per capita real national income over the same period. Owing to the several years' delay in publication of the *Annual Survey of Industries* it is, regrettably, not possible to bring up this account so as to cover the most recent period. It is not unlikely, in the light of experience of earlier periods of steep price increases, that the real income of organised labour may have suffered a relapse in

the latest acute inflationary phase. Comparable and comprehensive data on this aspect are, unfortunately, not available.

6.5 These figures and the trend which they reflect will be found to be somewhat different from those given by the National Commission on Labour, for the reason that we have taken the average earnings of all workers, while the National Labour Commission took the average of the earnings of workers covered by the Payment of Wages Act, viz., those drawing a wage below Rs. 200 per month before 1958 and below Rs. 400 per month thereafter\*.

#### Wages and value-added by Manufacture (V.A.M.)

6.6 Another aspect of distributive shares of the national product—of some importance both from the point of view of labour as well as of economic trends generally—which has received much attention of late, is the share of wage costs in the total costs of manufacture or of wages in the value-added-by manufacture (V.A.M.). We, therefore, proceed to analyse the trends in workers' earnings (which include besides wages the money value of benefits as well) in relation to value-added-by-manufacture in the post-war period as far as it is possible to carry the series on the basis of the data from the Annual Survey of Industries\*\*.

#### Workers' Earnings As Percentage Of Value Added By Manufacture

(Value in Rs. crores)

Year	Earnings	V.A.M.	Percent- age 2 to 3	Trien- nium ending	
1	2	3	4	5	
1946	. .	84.62	211.41	40.0	
1947	. .	113.39	242.22	46.8	
1948	. .	138.86	317.34	43.8	43.5
1949	. .	147.79	272.69	54.2	
1950	. .	139.43	283.93	49.1	
1951	. .	156.47	347.21	45.1	49.4
1952	. .	166.15	314.98	52.6	
1953	. .	168.78	333.98	50.5	
1954	. .	176.28	372.98	47.3	50.1
1955	. .	184.25	419.45	43.9	
1956	. .	202.97	468.74	43.3	
1957	. .	202.26	444.66	45.7	44.3
1958	. .	207.66	489.88	42.4	
1959	. .	327.82	758.98	43.2	

1	2	3	4	5	
1960	.	373.80	864.37	43.2	42.9
1961	.	421.51	987.91	42.7	
1962	.	482.63	1115.61	43.3	
1963	.	533.00	1295.69	41.1	42.3
1964	.	603.35	1503.51	40.1	
1965	.	687.98	1700.43	40.5	
1966	.	748.62	1831.73	40.1	40.2
1967	.	819.75	1898.84	43.2	
1968	.	879.11	2061.36	42.6	42.9@

Note.—The series have been compiled using the data available in 'Census of Manufacturing Industries from 1946--58 and 'Annual Survey of Industries' from 1959--68.

6.7 A reference to column 5 of the above table shows gradual downtrend in the ratio of total wages or earnings to V.A.M., following an initial rise in the immediate post-war period. It is of interest to analyse the factors underlying this trend.

6.8 Value-added is composed mainly of interest, excise duty and cess, managerial remuneration, earnings of the employees other than those classed as workers (described as 'non-workers'), selling expenses, other expenses including transport and postal charges, customs and export duty, buying agents' commission, directors' fees and other provisions. In an assessment of the factors behind the trend, it is relevant to observe the changes during the period in (a) the number of workers (which affects total wages or earnings) on the one hand and (b) the number of 'non workers' and (c) the amount of capital on the other, the latter two being the principal components of V.A.M. other than workers' earnings. The index numbers of the above three factors from 1948 to 1968, at biennial intervals, are given below:

*Index numbers of number of workers and non workers and of productive capital employed per worker  
1946=100*

Year		No. of workers	No. of non-workers	Productive capital per worker
		1	2	3
1948	.	111.4	124.9	118.0
1950	.	105.8	128.8	158.3
1952	.	107.5	119.6	185.1
1954	.	110.6	121.0	194.1
1956	.	121.0	163.7	225.4
1958	.	115.3	173.2	287.0
1960	.	186.1	253.9	292.9
1962	.	208.2	298.3	449.9
1964	.	234.6	427.2	613.0
1966	.	337.7	539.4	880.8
1968	.	235.1	557.5	1044.2

Source.—Companion Volume on Statistics of Selected Manufacturing Industries (Part I), National Commission on Labour.

\*The Chairman has appended an analytical note dealing with technical aspects of the differences in the data used and the conclusions arrived at by the Committee and by the National Commission on Labour.

\*\*The money value of benefits which is available jointly for wages (of workers) and salaries (of non-workers) has been split up and added to wages, in the ratio of the money-value of total wages and total salaries.

@For the biennium ending 1968.

6.9 It will be seen that a principal reason for the decline, such as did occur, in the ratio of wages to V.A.M., lay in the considerable increase in the role of capital, the interest on which figured as a component of value-added. But a not less important explanation of the decline in the ratio of wages to V.A.M., is the much faster increase in the numbers of the "salaried", viz., employees drawing salaries rather than wages, classed as non-workers(!), coincidentally with increase in the capital-intensity of industry and in the sophistication of productive technology. Besides, excise duties and cesses and customs duties together increased at a comparatively rapid rate during the period under consideration.

6.10 For a more assessment of the factors in the variation of the ratio of wages to value-added-by-manufacture during the period since the Payment of Bonus Act was passed in 1965, we may turn to the analysis in the table below on "Distribution of Value Added among Different Factors of Production", based on the data for 1501 companies in the Reserve Bank of India sample of companies. The companies represent a constant sample throughout the period of public Limited companies (in the private sector) only and do not reflect the position for public sector enterprises or private Limited companies or proprietorships. The analysis based on their results over a period is, nevertheless, of considerable interest and, in regard to the subject matter under study, indicative of broad trends in the industrial sector of the economy.

*Percentage Distribution of V.A.M. among various Factors of production in Reserve Bank Sample of 1501 Companies.*

	1965-66	1966-67	1967-68	1968-69	1969-70	1970-71
1. Value added (Rs. crores) . . .	1794.51	1993.57	2145.99	2322.13	2591.53	2966.38
2. Share of wages, salaries, P.F., and welfare expenditure . . .	38.26	37.12	38.24	38.10	36.92	36.17
3. Share of interest . . .	5.67	6.46	7.18	7.23	6.69	6.67
4. Share of Managerial Remuneration	1.02	0.98	0.82	0.78	0.72	0.44
5. Share of Selling Commission . . .	2.00	2.14	2.13	2.18	2.05	2.08
6. Share of Other Expenses (including bad debts) . . .	13.87	15.01	15.66	15.44	15.05	15.03
7. Share of Tax provision . . .	9.28	8.37	6.91	6.50	6.69	7.25
8. Share of Excise Duties and Cess . . .	20.61	20.79	21.98	23.14	23.23	23.82
9. Share of Dividends . . .	5.83	5.47	5.05	4.84	4.93	4.86
10. Share of Profits retained . . .	3.46	3.66	2.02	1.80	3.71	3.69

Note :—The companies included in the sample consist of 1501 selected medium and large non-financial non-Government public limited companies, each with paid-up capital of Rs. 5 lakhs and above and comprise, inter alia, the following major industries :

- |                         |                      |                    |                              |
|-------------------------|----------------------|--------------------|------------------------------|
| (1) Tea Plantations.    | (4) Coal mining.     | (7) Jute textiles. | (10) Chemicals.              |
| (2) Coffee Plantations. | (5) Sugar.           | (8) Iron & Steel.  | (11) Cement.                 |
| (3) Rubber Plantations. | (6) Cotton textiles. | (9) Engineering.   | (12) Paper & Paper Products. |

6.11 It may be noted that unlike the earlier analysis based on Annual Survey of Industries which referred to the wages and earnings of workers\*, the above data gives wages, salaries and money value of benefits of all employees. As such they do reflect continuance of a fall in the ratio of wages etc. to V.A.M. A glance at the percentage figures brings out, however, that as against this fall in the share of wages, the factors whose shares went up were principally excise duties and cess (partly offset by a fall in the direct tax provision), and interest on borrowed funds. 'Other expenses' also went up; so did retained profits, to a slight extent, taking the entire period. The share of dividends and managerial remuneration, on the one hand, declined, as did that of wages. This comparative picture of the trends in the shares of various factors of production enables a better appreciation of the relative share of wages in the total costs of manufacture.

### **Wages and Productivity**

6.12 The fact of a relative decline in wage costs apart, these data relating to the proportion of wages to value-added-by-manufacture have to be interpreted with caution in drawing conclusions about changes in labour's share of increased productivity. Productivity results from a multiplicity of factors. For one thing, the number of employees other than workers, who contribute to the productivity as well as workers, increased at a much faster rate than the number of workers presumably owing to increasing sophistication of industry. Again, the increasing capital-intensity of industry as measured by the indices of productive capital employed per worker was no doubt a major factor in the improvement of productivity. The indices given in table in the last section on Wages and V.A.M. bring out the relative input of the three most important factors viz., labour, capital and salarised

\*Workers are employees having a wage of Rs.400 or less per month.

including supervisory personnel, which contributed to increased productivity. As such, the assumption or expectation that the reward of labour by itself should have a proportionate relationship to advance in productivity overlooks the contribution of other factors the input of which increased more sharply, and is not, therefore, well-based.\* On the other hand, given the paramount objective of a substantial and continued increase in investment, and to that end of savings, for the steady progress of the economy,

Year	V.A.M.	Productivity	Index	Index	Index
	per worker	per worker	Nos. of productivity per worker** (1951 = 100)	Nos. of money earnings (1951 = 100)	Nos. of real earnings (1951 = 100)
	(Rs.)	(Rs.)			
1	2	3	4	5	6
1952 .	2118	2100	106.4	105.3	107.3
1953 .	2280	2308	116.9	108.8	107.7
1954 .	2431	2421	122.6	108.5	112.8
1955 .	2640	2556	134.5	109.4	120.0
1956 .	2793	2663	134.9	114.3	114.3
1957 .	2769	2564	129.9	119.5	113.1
1958 .	3062	2830	143.4	122.6	111.0
1959 .	3025	2758	139.7	123.4	107.1

	1	2	3	4	5	6
1960 .		3349	2772	140.4	136.7	115.7
1961 .		3607	2836	143.7	145.3	121.1
1962 .		3863	3018	152.9	157.8	127.5
1963 .		4279	3292	166.8	166.2	130.3
1964 .		4621	3423	173.4	175.1	120.9
1965 .		5083	3482	176.4	194.2	122.8
1966 .		5556	3473	175.9	214.4	122.4
1967 .		5810	3500	177.3	236.8	119.0
1968 .		6321	3808	192.9	254.6	124.3

the treatment of average increase in productivity as a ceiling for increases in the rewards of personnel can be a salutary general rule. Sarvashri Mahesh Desai and G. Ramanujam do not subscribe to the above view.

6.13 The following table carries forward the comparison of the trends in the rewards of workers (viz., wage-earners) and in growth of productivity upto 1968 on the basis of ASI data.

6.14 In the context of the projected effort to develop a framework of policy on wages, incomes and prices, the above data would have some relevance, though it is necessary to interpret and use the data and arrive at any conclusions with care.

\*The National Commission on Labour displayed considerable awareness of the limitations of any data regarding labour's share in productivity. Thus the Commission observed : "Labour productivity and changes therein are difficult to measure and there are no reliable indices available in this respect. A few independent researches in the field of specified industries have generally been limited by the assumption made and lack of availability of data and precision on operational concepts. Their results have not been generally acceptable. The main difficulty in measuring labour productivity arises owing to the output not being an exclusive product of labour. Capital, technology and management—all contribute to it along with labour and these seldom remain constant. In consequence, increases in per capita output cannot be attributed to labour alone, much less the total output. Valuation of the physical product presents another set of problems. All that we have is information about changes in output per worker at constant prices. These cannot, of course, be taken as indices of labour productivity". (Para 15.15) (Emphasis added).

\*\*Productivity per worker is arrived at by deflating the value-added-by-manufacture per worker by the index numbers of wholesale prices (Manufacture).

## CHAPTER VII

### MINIMUM BONUS—ABSOLUTE MINIMUM

Having reviewed the economic background to our enquiry and the broad operation of the Payment of Bonus Act with reference to trends in payment of bonus, we may turn now to the main issues regarding suitable amendments in the Act. An important issue considered by the Committee concerns the question of minimum bonus. Following the Interim Reports of the Committee submitted in September 1972, Government promulgated an Ordinance, later changed into an Act, prescribing 8½ per cent as minimum bonus under the law for the accounting year 1971. A year later another Ordinance was issued prescribing minimum bonus at the same rate for a further year viz., 1972. Despite the observation in one of the Interim Reports that the issue of minimum bonus had been closed so far as the Committee members recommending the increase to 8½ per cent were concerned, Government action has been limited to one year at a time and the position remains that the law as it stands at present does not provide for minimum bonus at the higher rate of 8½ per cent beyond the accounting year 1973. The Committee has, therefore, to consider what its recommendations may be on the question of minimum bonus for the future.

7.2 There has been a view voiced particularly on behalf of the plantation industry and of small establishments that the minimum bonus should not be permanently raised to the level incorporated in the last two amending Acts, viz., 8½ per cent. On the other hand, there has also been some expression of opinion on behalf of labour organisations that the level of minimum bonus may be reviewed. All members of the Committee other than Sarvashri Bhat and Mahindra consider that the present level of minimum bonus, viz., 8½ per cent may continue to form the basis of legislation for the future. Though some of the above members had recommended a lower minimum bonus in September 1972, the fact that a higher minimum bonus has been granted by Government, by annual extensions, for a period of years has been taken into account by them in endorsing the recommendation for a minimum bonus of 8½ per cent for the future.

7.3 All members of the Committee except Shri Mahesh Desai consider that the increase of minimum bonus to 8½ per cent, if made from the level of 4 per cent should be treated as a permanent structural once-for-all adjustment in the floor of bonus under the Act, for in the scheme of annual profit bonus in India which is substantively related to profits of the employer-concern, this increased rate of minimum bonus cannot be further raised without irreparably damaging the concept of bonus as a sharing of the profits of the employer. It is, indeed, in this sense

that they regard the increase in minimum bonus to the level of a month's wage for a year's work as a structural adjustment in the frame-work of bonus which does not lend itself to being tampered with periodically. Sarvashri N. S. Bhat and Harish Mahindra though they themselves remain opposed to an increase in minimum bonus above its original level viz., 4 per cent, support the above recommendation regarding the permanent nature of the new minimum, if 8½ per cent minimum bonus were to become a fact.

7.4 Shri Mahesh Desai is of the view that in the light of the definite indications of public policy as understood by him taken in conjunction with the erosion of value of the rupee and the consequent erosion in the standard of living of the worker, the statutory minimum bonus should be raised from 8½ per cent to 10 per cent for the year commencing in 1973 and 12.5 per cent thereafter. The other members of the Committee do not see any indications of a public policy justifying the raising of the minimum beyond 8½ per cent on the other hand, such indications as there are, point in the view of some members, to the contrary.

7.5 A question was raised by Shri Ramanujam and Shri Mahesh Desai regarding the absolute figure viz., of Rs. 80 which was mentioned as alternative to the rate of minimum bonus of 8½ per cent in the Interim Reports and which is adopted in the amending laws passed in 1972 and 1973. They suggested that this absolute figure should be revised upward substantially to, say Rs. 200 in view of the considerable rise in money wages and consumer price indices since the figure of Rs. 40 as alternative to 4 per cent, (from which the figure of Rs. 80 as alternative to 8½ per cent was derived) was fixed. On the other hand, it has been pointed out by Sarvashri N. S. Bhat and Harish Mahindra that since the rate of 8½ per cent is in itself an adequate safeguard for higher bonus to those whose wages actually justify it, there is no further need to change the absolute figure as alternative to the proportion fixed in the statute of 1965.

7.6 The Chairman, Shri Billimoria and Dr. Punekar have considered these points of view. They think that if an absolute figure has lost touch with reality with the passage of years, the opportunity of an amendment of the law should be availed of to revise the absolute figure in conformity with present-day rates of wages. In particular, it might look anachronistic to leave an absolute figure derived from one dating back a decade ago in the legislation to be enacted in the mid-seventies.

7.7 Taking into account the increase in the index numbers of money wages as well as in consumer price index numbers during the last 8 or 9 years, the absolute figure as an alternative to 8½ per cent which would reflect this increase would be about Rs. 150. However, the figure of Rs. 40 as alternative to 4 per cent, would have had the effect, presumably intended at that time, of levering up the absolute level of bonus above what the actual wage levels might justify, perhaps having regard atleast partly to the relatively low rate of minimum bonus. With the rate of minimum bonus now having been revised substantially upward, there is not the same justification for incorporating a similar leverage effect into the absolute figure at present. In particular, it is found from the schedules of minimum wages fixed for various industries and regions throughout the country that the minimum wage is often much lower than Rs. 150 per month especially in mofussil places and outlying areas, which still form a significant sector of the economy and in which the applicability of bonus will be extended further if the size of small establishments to be covered is reduced. This level of absolute figure may thus have the effect of awarding more than a month's wage in numerous cases, especially in backward areas and small establishments which might for the first time be included. The Chairman, Shri R. P. Billimoria and Dr. S. D. Punekar recommended that the absolute figure as an alternative to the minimum bonus rate of 8½ per cent may, therefore, be placed at Rs. 125 as against Rs. 80 in the amending Acts and Rs. 40 in the 1965 Act. They recommend that the corresponding absolute figure for persons below the age of fifteen may be revised to Rs. 80 from Rs. 50 in the amending Acts and Rs. 25 in 1965 Act, Sarvashri Ramanujam and Mahesh Desai recommend revising

the absolute figure of Rs. 80 (Rs. 40 in the 1965 Act) to Rs. 200 and of Rs. 50 (Rs. 25 in the 1965 Act) to Rs. 125. Sarvashri Bhat and Mahindra are not in favour of the suggestion to raise any further the absolute figures of Rs. 40 and Rs. 25 in the 1965 Act which have been raised to Rs. 80 and 50 respectively for persons above and below the age of fifteen, as alternative to the rate of 8½ per cent, through the annual amending Acts.

7.8 A minimum bonus raises the question of 'set off' of any possible losses resulting from its payment. It is a fact that this 'set off' provision has not been of much avail to many concerns which have had to pay higher minimum bonus than what they might have been required to pay under the formula, year after year, and the 'set off' has continued in lapse. However, there are concerns where the availability of 'set off' helps to minimise the incidence of bonus in years when the concern might show better results and in any case the availability of the 'set off' provision acts as a possible psychological incentive to concerns to improve their working with the hope of conserving part of the results of improvement for themselves. The provision is on the whole useful and is also an ancillary to the character of bonus as a share of profits, if not present profits, at least possible future profits. The majority recommends that the 'set off' provision and the period of four years for the duration of each amount of 'set off' may be maintained as at present. Shri Mahesh Desai does not subscribe to this view as he wants bonus above the minimum to be settled not by a formula but by collective bargaining. The question of 'set on' is dealt with in Chapter X in connection with the subject of maximum bonus.

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## CHAPTER VIII

### LINKAGE OF BONUS TO PRODUCTION/ PRODUCTIVITY

Two of the terms of reference to the Committee are addressed to a possible linkage of bonus to schemes for increasing production/productivity in a concern. These are as follows:

- (iv) "Whether the entire bonus payment should be related in some way to production/productivity in the undertaking?"
- (v) "Whether the present minimum bonus of 4 per cent may continue but a provision be made for its being supplemented through suitable schemes of production/productivity?"

8.2 In the terms of reference to the Bonus Commission the question of linking bonus to production/productivity was not specifically included. But the Bonus Commission considered this question and came to the conclusion that in view of the objections to the proposal by a large section of employers as well as by almost all the unions and the practical difficulties inherent in any such proposal, the Commission was unable to recommend that the concept of bonus based on profits should be replaced by an annual bonus linked with production or productivity. There was no doubt that properly devised incentive schemes in manufacturing concerns formed a useful part of the wage structure and helped increase production, but they could not be suggested as a substitute to replace the annual profit-sharing bonus.

#### **Observations in the Interim Reports of the Review Committee**

8.3 The question of minimum bonus and its possible relation to production/productivity was considered by the Bonus Review Committee in the interim reports. In the interim report submitted by the Chairman and three other members, it was observed as follows : "On the question of linking the minimum bonus with increase in production/productivity, the evidence of both employees and employers has been against the possibility of forging such a link. The employees have opposed the suggestion on the grounds that minimum bonus should be unconditional and that it is impracticable to separate out the contribution of labour to the increase in production/productivity. The employers have recognised that schemes of bonus related to production/productivity have an important contribution to make towards improvement of productivity in industry, but they have said that these can be applied only, and are being applied on a unit-wise basis. The problems of measurement of production/productivity in terms of a common denominator applicable to the entire field of industry and

trade within the purview of the Payment of Bonus Act, are indeed large and complex. The problem of identifying the contribution of employees of various grades to any increase in production/productivity in the absence of a general measure of such contribution, in particular limits the possible scope of bonus linked to production/productivity (a) to individual establishments as against any wide sector of industry or the country as a whole, and (b) to specific types of industrial operation which lend themselves especially well to work measurement. We have, therefore, come to the tentative conclusion that no general system of bonus linked to increase in production/productivity could be worked out so as to provide a substitute for, or alternative to, the general scheme of annual profit bonus in industrial and commercial establishments.

"However, there is apparently room for appreciable expansion of bonus system (so-called) related to production/productivity, a spectrum of which is in vogue in Indian Industry. Schemes of bonus related to production/productivity are, in the main systems of incentive wages or payment by result, and they are more complementary to wage payments, which are made on a monthly or shorter frequency, and where the relationship between effort and reward can be more clearly established, in the eyes of labour as well as in the calculation of the managements. The same direct relationship of contribution and result cannot hold so clearly and easily between production/productivity and the bonus on an annual basis. We believe however, that the query posed in the terms of reference (v) concerns the desirability of extending the scope of minimum bonus rather than of systems of bonus (or incentive payments) related to production/productivity. We agree that efforts should be maintained and multiplied manifold, through the National Productivity Council and other organs, to widen the scope of systems of bonus related to production/productivity both as a complement to the system of annual profit bonus, and wherever feasible on an industry or unit-wise basis in replacement thereof. We expect to go into this aspect of the terms of reference somewhat more fully in the final report in connection more especially with the fourth term of reference but also in relation to the fifth term of reference depending on the stage of the matter. This subject has a bearing on the rate of increase in minimum bonus as well as on annual profit-bonus generally".

8.4 In the interim report submitted by the four other members, it was stated as follows : "All organisations of employers and workers have pointed out

to us the impracticability of linking any part of bonus to productivity or production. In the circumstances we agree with the views of both the parties and we recommend that no part of this bonus shall be linked to production/productivity".

#### **Views of Trade Union Organisations**

8.5 Most of the trade union organisations are opposed to linking bonus to production/productivity and to substituting a production/productivity bonus for the profit-sharing bonus.

8.6 The Indian National Trade Union Congress (INTUC), in its memorandum, has stated as follows: "We would not recommend linking of any or the whole of the profit-sharing bonus to production or productivity, nor to substitute it in the place of production or productivity bonus. We realise the importance of increasing productivity and the need for providing sufficient incentive to the workmen for the purpose. This can be better achieved by introducing incentive schemes so that an individual workman or a group of workmen who are directly responsible for production and productivity can be suitably rewarded. But that should be in addition to the profit-sharing bonus, and not in lieu of the profit-sharing bonus. We do not think there is any reliable measure of production or productivity in different types of undertakings. Even if it were there it will be difficult to determine labour's share, for labour is only one of the several factors. In an economy where supply of raw material and power often run into difficulties, it would be difficult to have reliable index of production or productivity. Even so, it should not be difficult to evolve norms with the concurrence of labour for purposes of incentive wages in industrial establishments and relate them to production or productivity".

8.7 Similarly, the Hind Mazdoor Sabha has opposed linking of bonus to production/productivity and it has stated in its memorandum : "We should not accept linking of bonus to production or productivity and this question does not arise at this stage as the Committee in its Interim Report has rejected the suggestion of linking bonus to production or productivity. We support the Committee in its recommendation in the interim report on this aspect". It further observes : "We have not come across any reliable measure of production or productivity. Experience of industrialised countries shows that so far no agency has devised and maintained any reliable measure of production and/or productivity. Moreover, labour's share in productivity is controversial. Question of developing standard for measurement of production or productivity so as to furnish a basis for an effective system of production bonus, should be left to the parties. We submit that introduction of incentive schemes, their development and implementation are essentially matters for collective bargaining and these matters should not be thrust on labour by any outside agency".

8.8 The United Trade Union Congress, Ganguly Street, while opposing linking of bonus with production/productivity in its memorandum has stated that

the concept of bonus under the present Act is mainly based on profit, excepting the guaranteed minimum bonus. The production bonus is a completely different category. It can and does exist side by side with profit sharing bonus in many concerns. There are practical difficulties also to measure the quantum of production or productivity due to modern complexity in production, and to determine the share of each individual workman on the basis of his performance. In many concerns production suffers due to non-utilisation of existing capacity and irregular short supply of raw materials.

8.9 The Textile Labour Association, Ahmedabad, is also of the view that bonus should not be related to production or productivity in the concern. This may create problems and disputes rather than resolving the same. The production or productivity in any manufacturing industry does not depend entirely upon labour. It depends upon the flow of working capital, supply of raw materials, equipments supplied to the workers, i.e., condition of machinery and its maintenance and the efficiency and skill in the purchase of the materials required for the manufacture of the product and the proficiency in the sale of finished products. All these factors are variable factors and the productivity will vary according to variations in those factors. Therefore, there will be uncertainty linked with the system of bonus if it is related to production or productivity. The annual bonus is different from the incentive bonus paid to workers and there are industries which in addition to the annual bonus have introduced the incentive bonus schemes in their establishments, and the workers get the benefit of such incentive bonus as part of their regular wages every month.

#### **View of the Employers' Organisations**

##### **(A) Views of Public Sector Units**

8.10 Some Public Sector units like Hindustan Aeronautics Ltd., Indian Telephones, Bharat Electronic Ltd., and Bharat Earth Movers have expressed themselves in favour of attempting to link bonus to production/productivity. But the Hindustan Machine Tools (HMT) has observed in its memorandum as follows : "No type on National Norm for the payment of bonus would suit all establishments to the same degree. The use of productivity as the index for bonus payment would be highly desirable since increased production would at least partially offset the higher cost of bonus. Bonus cannot be paid unless there are profits and productivity norms should bear a fair relationship to profits. Since productivity/profitability relationships vary from organisation to organisation and even within an organisation from time to time because of production mix changes, technological obsolescence, increasing costs of plant replacement, continually rising wages, dearness and other allowances and so on, productivity norms based on physical production cannot have universal applicability. Productivity norms used for the payment of bonus should reflect the true rise in labour productivity. Increase in production due to the introduction of additional plant and machinery or

more sophisticated technology should not be counted as labour productivity". The HMT reply further observes that it would be impossible to develop uniform and acceptable standards of measurement of production/productivity in relation to the great variety of products and services turned out by the establishments in the country, on the basis of which a uniformly satisfactory individual bonus reward could be evaluated.

#### (B) Views of Private Sector Employers' Associations

8.11 The Ahmedabad Millowners' Association in its memorandum has suggested as follows : "We are not in favour of replacement of bonus related to profits by an alternative system in which bonus is dependent on production/productivity. Even at present, before any scheme of rationalisation or any efficiency method aimed at achieving increased productivity is introduced, it is done after thorough negotiations with the Labour Union, and both the sides agree before-hand that a definite share in the gains which would accrue to the said industrial unit, would be passed on to the workers immediately the scheme is put through. The workers do, therefore, get the benefit of the increase in productivity in the form of higher wages. It is, however, difficult to suggest any set formula for being adopted in this regard, and the problem is interlinked with the progress of the economy and improvement in the standards of living of the citizens".

8.12 The Association further points out that due to the complex nature of the Textile Industry—constant change in type of manufacture to cater to consumer tastes, it is not only difficult but well-nigh impossible to assess correctly the extent of increase in productivity either in the form of output per man-hour or number of persons employed on a set number of spindles or looms. In some cases, e.g., in case of a mill which has changed over from coarse counts to fine counts or from producing grey goods to processed goods, productivity measured in terms of physical output may actually have gone down though the same number of spindles and looms may be still working. Improvement in productivity in relation to a worker can be measured in several ways.

8.13 The Millowners' Association, Bombay also does not favour replacing profit sharing bonus by a bonus linked to production/productivity. In its memorandum it has pointed out that "the replacement of the present system of bonus related to profits, by another system under which it may be either partly or wholly related to the production or the productivity of an undertaking, will not be a practicable scheme, because, the alternative system will have to rely, either partly or wholly, on basically nebulous criteria like production, whose nexus with the concerned undertaking's ability to pay bonus is too tenuous and difficult to establish commercially, and productivity whose fair and accurate apportionment between the men and the machines employed in the undertaking can never be free from controversy. Further, insofar as the cotton textile industry is concerned, the situation today is that apart from being

statutorily entitled to bonus related to profits, and, by a special provision of the law, bonus even in the absence of profits, the cotton textile workers do share the gains of productivity with their employers through the enhanced wage-rates which are granted to them pursuant to the agreements entered into with their representative unions before any scheme of rationalisation or modernisation is introduced. Under these circumstances, any claim for bonus, whether minimum or otherwise, related to production/productivity would be obviously redundant".

8.14 The Southern India Millowners' Association, Coimbatore, in its memorandum also has pointed out that the assumption that production by itself should bring about profitability in an establishment is not entirely correct. Profitability depends on various other important factors like market conditions, capital costs, managerial efficiency etc. Therefore it may not be appropriate to link production with bonus since bonus has to come out of profits. Labour would never be reconciled to linking profit-sharing bonus to production/productivity. They look forward to a lump sum payment as a share of profits in addition to any payment secured under incentive schemes.

8.15 The United Planters' Association of South India (UPASI) in its memorandum has observed that linking of bonus to production/productivity would be an ideal solution although there are practical difficulties in evolving a scheme uniformly applicable to all units. The Association does not favour linking bonus to production which is not indicative of either profits/productivity. So far as plantations are concerned, production is subject to marked fluctuations owing to climatic and seasonal factors.

8.16 The Council of Indian Employers in its memorandum has stated : "It may be appropriate for individual establishments to adopt suitable schemes of payment by results as a substitute for the annual profit sharing bonus. While therefore the Committee may consider evolving some guidelines to help the introduction of bonus schemes linking bonus with production/productivity, it should be borne in mind that a national formula for such schemes would be extremely difficult because of the diversity of work processes and conditions in different industries. In Tea and Coffee Plantations, for example, it just may not be possible to fix any bonus linked to production as the crops are largely dependent on climatic factors".

8.17 "Production itself may not reflect the profitability of an undertaking as profits could vary because of several other factors like changes in prices, capital gains, managerial efficiency, etc. Hence, the linking of the entire bonus payment with production/productivity of an undertaking may not be consistent with the concept of bonus as enunciated by the Bonus Commission, namely the sharing by workers in the profits or prosperity of the concern. Moreover, even in cases where bonus is linked with production/productivity workers may still raise demands for bonus based on profits. The Council would therefore, suggest that Section 32(vii) of the Bonus Act

which provides for annual bonus linked with production/productivity should be retained and suitably altered to give reasonable protection to those establishments which are capable of introducing or have introduced such bonus in lieu of profit-sharing bonus".

#### **Views of the Committee**

8.18 From a perusal of the above evidence it is clear that neither the employees' organisations nor the employers' organisations are in favour of linking the present scheme of annual profit bonus to production/productivity, in the main for the following reasons.

(1) Productivity is difficult enough to measure in any individual concern and impossible to measure in terms of a uniform standard of general or wide applicability so as effectively to become the yardstick of a generalised bonus system. Laudable as productivity schemes and their objectives are, they could not be amalgamated into a single pattern of universal coverage over the entire industrial sector, much less the whole field, including the commercial and financial sector, over which bonus applies.

(2) Underlying productivity there are many variable factors, e.g., (a) availability of raw materials, (b) condition of machinery or plant, (c) supply of power (electricity) or fuel (d) the type of products produced by different units in the same industry, (e) conditions of the market which vary from time to time, (f) price levels for the different products, (g) organisational and managerial efficiency, and (h) the efficiency of labour, etc. In this scheme of things, the efficiency of labour is only one among the multiplicity of variable factors which contribute to, and account for, productivity.

(3) There is not always a direct link between an increase in production/productivity and increase in profits. The latter also depend upon the numerous variables mentioned in (2) above.

(4) It is not possible to recommend one common national formula for all types of industries/organisations/establishments etc.

(5) There are in many concerns incentive schemes which may at times help to increase production and also enable employees to receive additional remuneration. But these schemes are appropriately related to systems of wage-remuneration which enable the result of extra output or productivity to be reflected over a short period in the reward of labour, rather than to the annual bonus which has developed a specialised relation to profits.

8.19 It is remarkable that the Committee on Profit-Sharing set up by the Government of India in 1948 came to an identical conclusion with regard to the possibility of replacing a system of profit bonus with a generalised scheme of production-linked bonus. Thus :

"For one thing, profits made by industry depend on many factors besides labour, and to that

extent, do not bear any measurable relation to what labour does or does not do. An undertaking in which labour has performed its full part might fail to make any profits because of other reasons while large profits might be made in spite of irregularities or slackness of labour. Conditions of production vary from industry to industry and from undertaking to undertaking within each industry. The productivity of labour is dependent, among other things on the nature of the equipment and the efficiency of organisation and supervision. Then, again, the measurement of total production in terms of a common unit is a very difficult task. Even the final products of an industry or undertaking are not always uniform and easily measurable. To prescribe a norm of annual production is even more difficult. Further, the basic conditions in any one year may be quite different from the conditions on which the norm has been determined. The production equipment might have increased or diminished or improved or deteriorated in the meantime. The size and composition of the labour force might similarly have changed. There may be involuntary interruptions for which no one is responsible. To compare actual production in any given year with the norm would, therefore, be extremely unscientific and unsatisfactory. To compare total production in any industry with the normal total production of that industry would be an even more unsatisfactory basis, as the number of working units in the industry might itself vary from year to year".

8.20 We may conclude that the existing system of country-wide profit bonus may not be replaced by a universal system extending over the whole economy of bonus linked to production/productivity, as the objective and scope of the two types of bonus schemes are so different that it is not practicable at this stage of their separate development to substitute one system for the other. However, encouragement of production and productivity remains a paramount goal of our economic policy and schemes of bonus linked to production/productivity are capable of being introduced in individual units and sometimes on an industry-wide basis. Therefore, if any employers and their employees by agreement or settlement want to substitute profit bonus by bonus linked to production/productivity, they should be encouraged to do so. Accordingly, Section 32(vii) of the Payment of Bonus Act may be retained. Section 32(vii) reads:

"Nothing in this Act shall apply to—employees—  
 (a) who have entered before the 19th May, 1965, into any agreement or settlement with their employers for payment of an annual bonus linked with production or productivity in lieu of bonus based on profits; or  
 (b) who entered or may enter after that date into any agreement or settlement with

their employers for payment of such annual bonus in lieu of the bonus payable under this Act,

for the period, for which agreement or settlement is in operation".

8.21 It was stated before the Committee that both in the private and public sectors owing to a variety of pressures from different quarters or other reasons settlements have sometimes been arrived at under the production/productivity clause merely with a view to circumventing the provisions of the bonus formula under the Act and buying industrial peace. Such agreements go against the purpose for which Section 32(vii) was provided.

8.22 At the present time when considerable stress is being placed on production and productivity, there is a danger that this very emphasis might be exploited to pressurise the employers further to enter into bilateral agreements under Section 32(vii). This apprehension would become real, particularly when the deletion of Section 34(3) which has been recommended for various valid reasons, comes into effect. The contention of the majority recommendation is that bonus payment should be made only in terms of the Payment of Bonus Act which includes Section 32(vii) and the Committee as a whole is in favour

of retention of Section 32(vii) in principle. It is, therefore, necessary to ensure that the spirit of the provision, viz., Section 32(vii), is faithfully followed. At the same time there has to be a genuine sharing of the gains in production/productivity between workers and employers. This is an area where only legislation cannot provide an answer.

8.23 The employees' organisations should endeavour to resist the easy course of securing sectional gains. This salutary advice is equally applicable to the employers. On this premise our recommendation is that any agreement under Section 32(vii) should be preceded by the acceptance of the following principle : When a new agreement is entered into it must be demonstrably proved that it will help real increase in production/productivity. In order to ensure this there should be a work-study undertaken by an impartial expert or experts drawn from organisations which are specialists in the field. Employers' and employee's organisations in the public as well as private sectors should exercise a wholesome influence in persuading their members to abide by the above recommendations.

8.24 Shri G. Ramanujam and Shri Mahesh Desai do not subscribe to the views contained in paragraphs 8.20 to 8.23.



## CHAPTER IX

### FORMULA FOR COMPUTATION OF BONUS

In Chapter II we have considered the historical background of evolution of the system and concept of bonus in India. In this Chapter we shall refer briefly to the bases for the computation of bonus and consider the question of the formula for the determination of bonus.

#### **Evolution of bonus formula with special reference to the Rehabilitation Allowance**

9.2 From an early stage of the bonus issue coming to a head it was generally recognised that the company, shareholders, Government and labour were four rightful claimants for appropriating shares out of the profits. The company had a right to appropriation of a share of the profits by way of depreciation for replacing in due course the worn-out plant and equipment as well as for building up various reserves against future contingencies and for growth of the company. The shareholders who had contributed to the capital formation of the company had legitimate expectations of return by way of dividend broadly reckoned. The Government naturally looked to a portion of the profits as tax to provide for the economic development of the country. Labour too had a strong claim by way of bonus to a share in the profits which had been made possible by its contribution to the production of goods and services. The question, therefore, arose of the order of priority in which the different claims of depreciation and reserves, dividend, taxation and bonus should be arranged. In the following paragraphs we propose to touch on this aspect of the order of claims after dealing with one of the more controversial items of claims for deduction from profits before a part of the residual is allocated for bonus.

9.3 One of the most difficult issues in the computation of bonus was the method of arriving at the rehabilitation allowance. For this purpose, the coefficient between the original price of the plant and the estimated price at the time of replacement had to be worked out and thereafter a multiplier had to be established for determining each year's cost of replacement, rehabilitation, etc. Although the L.A.f. formula held the ground for a number of years, the tribunals were finding it increasingly difficult to calculate accurately the amount required for rehabilitation and modernization of the plant and machinery for different industries because of want of definite evidence as regards the probable future prices of machinery which would be required to be purchased after, say, ten or fifteen years. Estimation of prices was proving to be pure guesswork and the method became more and more unworkable.

9.4 The questions of the entire formula, the claim for rehabilitation and the need for modification were gone into by the Supreme Court in the case of the Associated Cement Companies (Dwarka Cement Works, Dwarka and Bombay) and others and their workmen. The Supreme Court held that there was no case for modification of the formula. It, however, observed "that if the legislature feels that the claim for social and economic justice made by labour should be redefined on a clearer basis it can step in and legislate in that behalf. It may also be possible to have the question comprehensively considered by high-powered commission which may be asked to examine the pros and cons of the problems in all its aspects by taking evidence from all industries and all bodies of workmen. The plea for the revision of the formula raises an issue which affects all industries; and before any change is made in it, all industries and their workmen would have to be heard and their pleas carefully considered." This decision of the Supreme Court was given in May 1959 (*vide* 1959 I.L.L.J. p. 644). Consequently, Government appointed the Bonus Commission in December 1961. One of the terms of reference was "to determine what the prior charges should be in different circumstances and how they should be calculated."

9.5 The Bonus Commission, in Chapter X of its Report dealt exhaustively with the delays involved and the difficulties experienced in calculating precisely the allowance for rehabilitation, replacement and modernization of the machinery in two cases viz., (i) Associated Cement Companies and (ii) the Cotton Textile Industry in Bombay. The Commission pointed out that the case of the Associated Cement Companies illustrated that if the requirement of rehabilitation was to be estimated and the detailed calculations made whenever there was a bonus dispute, it took considerable time of the tribunal and of the party. The case also illustrated that a company might make adequate profits to pay bonus and yet the rehabilitation claims might wipe out the available surplus. After considering the views advanced by the organisations of employees and workmen the Commission observed as follows: "Having considered the complications created, the resulting litigation in respect of calculations of rehabilitation requirements which the employees themselves have conceded are matters of guesswork, and having regard to the fact that the formula proposed by us left a fair surplus for the Company, we are of the view that no specific provision need be made for rehabilitation in addition to the normal depreciation in the formula." This recommendation postulated that a substantial portion out of the available surplus after meeting the prior charges should be left to the company or concern.

9.6 As for the calculation of the gross profit, the Bonus Commission suggested add-back items to and deductions from the net profit shown in the Profit & Loss Account of a company, which were incorporated, as proposed, in Schedules I and II of the Payment of Bonus Act. The following formula of prior charges, including the order of deductions, was recommended by the majority of the Commission:

#### Gross Profit for the year

Less	: Depreciation
Less	: Income-tax and Super-tax
Less	: Return at the actual rate payable on Preference Share Capital and at 7 per cent on Ordinary Capital.
Less	: Return at 4 per cent on reserves.
Balance	: Available surplus.

It may be added that for the purpose of the above calculations the accounting year was to be taken as a unit.

#### The Development Debate Deduction and Calculation of Allocable Surplus

9.7 In particular, the Bonus Commission did not recommend deduction of development rebate as a prior charge. In not allowing the development rebate as a prior charge, the Commission observed: "Under the Income-tax Act development rebate is not part of the depreciation allowance and is granted over and above the depreciation allowance. It is a special allowance to encourage companies to instal new machinery. In a year in which installations of machinery are very large, the inclusion of the whole of the development rebate together with the statutory depreciation, as prior charge, might wipe off or substantially reduce the available surplus, even though the working of the concern may have resulted in very good profit. Development rebate has not been treated as a prior charge under the Labour Appellate Tribunal formula and we are also of the view that it should not be deducted as a prior charge."\* However, in explanation of its omission to recommend deduction of development rebate the Commission added: "The formula proposed by us provides for the normal (including multiple shift) depreciation allowed under the Income-tax Act, and indirectly for half of the development rebate, by not taking into account the saving in tax on account of development rebate. Further we are proposing a substantial portion out of the available surplus, after meeting the prior charges to be left to the company or concern. This amount together with the tax relief on the amount payable as bonus would be available, among other things, for rehabilitation". In his Minute of Dissent to the Report of the Bonus Commission Shri N. Dandekar suggested "rehabilitation allowance" and/or "wasting asset allowance" and/or "replantation allowance" as a prior charge.

9.8 The Government accepted the suggestions of Shri Dandekar for some allowance for rehabilitation and added one more prior charge of "development rebate." Under the Payment of Bonus Act the formula of prior charges is as follows :

#### Gross Profits—

Less	: Depreciation admissible in accordance with the provisions of subsection (1) of section 32 of the Income-tax Act, or in accordance with the provisions of the Agricultural Income-tax Law;
Less	: Development rebate and/or Development Allowance;
Less	: Direct taxes ;
Less	: Return on capital at 8.5 per cent.
Less	: Return on reserves at 6 per cent.
Balance	: Available surplus.

9.9 The present formula embodied in the Payment of Bonus Act begins with the computation of gross profits by add-backs and deductions of certain items to and from the net profits respectively as detailed in Schedule I and II to the Act with a view to treating the accounting year as a unit. The prior charges prescribed in sections 6 and 7 read with Schedule III are deducted from the Gross Profits. The allocable surplus for distribution as bonus to employees was to be 60 per cent of the available surplus in the case of Indian companies and 67 per cent in foreign companies. Subsequently, under an amendment of the Act made in 1969, 60 per cent of the benefit of the tax rebate on the previous year's bonus was to be added to the allocable surplus of the year.

#### Views of Employees' Organisations

9.10 The formula in the Act has been attacked by most of the labour organisations. The Indian National Trade Union Congress (INTUC) in its memorandum has observed that the present formula of prior charges to arrive at the available and allocable surplus is rather complicated and is making settlement of bonus disputes difficult. In actual practice a deficit emerges even before providing for all prior charges even where substantial profits have been earned. The result is that a tendency has developed with both the employers and employees to ignore the formula of prior charges and arrive at agreements whereby a higher quantum of bonus than that due under the Act is being paid. Often the employer gives *ex gratia* amount in addition to the percentage of bonus due to the workmen under the Act. In many cases agreements have resulted under Section 34(3) of the Payment of Bonus Act which facilitate settlements outside the formula prescribed under the Act. This shows that the prior charges formula under the Act has become unrelated to realities and is being constantly ignored both by labour and management. The formula, therefore, needs drastic revision to make

\*Bonus Commission Report—Paragraph 9.7.

it more realistic. Four alternatives to the present formula have been suggested by INTUC:

- (i) The statute may fix only the minimum bonus and any bonus over and above the minimum may be decided by collective bargaining between the parties without a ceiling and without 'set off' and 'set on'.
- (ii) A percentage of gross profits either before depreciation or after deducting depreciation, to be declared straightway as bonus with a minimum and maximum and 'set off' and 'set on'.
- (iii) A universal minimum bonus of 8½ per cent of the total annual earnings subject to an absolute minimum which should be delinked from profits and losses and be termed only as annual or standard bonus. Such minimum bonus should only be linked to an accounting year and not to the results of the accounting year. Over and above the minimum a profit-sharing bonus may be worked out on the basis of an agreed formula but on the terms that if there is no profit, there should not be any further bonus.
- (iv) In lieu of the alternatives as above, a modified form of the present prior charges formula in the Payment of Bonus Act might be adopted with minimum, maximum, 'set off' and 'set on'.

9.11 The first alternative mentioned by INTUC is supported by HMS as well, which has stated in its memorandum that it wants to go on record of this Committee to the effect that there should be no formula for deciding bonus in excess of the minimum and the quantum should be discussed and decided by the employers and the workers in a given plant or the industry as the case may be. However, the Sabha points out that direct negotiations may not be possible only on the issue of bonus when in all other matters pertaining to industrial relations third party intervention is in vogue. There may be various reasons for which bonus disputes may not be settled directly and, therefore, it would be necessary to have a formula for bonus. In that case the Sabha would prefer a simple formula and the simplest formula would be to take the gross profit as the base for calculation of bonus, deduct normal depreciation permissible under the Income-tax Act and give the workers a share of the balance as bonus. Gross profits should comprise of the entire trading results.

9.12 The All India Trade Union Congress (INTUC) does not, however, agree with the view that apart from providing for a minimum bonus of 8½ per cent., there should be no formula and the matter should be left to be resolved by collective bargaining between the parties, because it feels that in effect this suggestion would mean freezing of bonus at 8½ per cent where unions are weak and where they are strong, it may under the present industrial relations law lead to litigation and thus bring back some formula decided by the Supreme Court. The AITUC

would, however, prefer the second alternative suggested by the INTUC. In its memorandum, it has observed that since 8½ per cent minimum bonus is payable even if depreciation cannot be provided out of the profits, in order to ensure that capital equipment remains intact, in calculation of bonus above the minimum level, depreciation should be deducted as a prior charge. Such depreciation should be as per the Income-tax law. The AITUC further suggests that out of the residue left after deduction of depreciation from gross profits the proportion for distribution of bonus should be 50 per cent and the benefit of tax rebate should be shared equally between both the management and the workers.

9.13 The Hind Mazdoor Panchayat (HMP) is also of the view that the amount of bonus cannot be regulated by any rigid formula. The mathematical calculation of bonus cannot replace collective bargaining. The Payment of Bonus Act, therefore, should lay down only guidelines for the grant of bonus and permit full scope for collective bargaining. Experience even under the present Act is that the rigid formula and mathematical calculation have not worked and disputes have arisen and results been achieved through collective bargaining.

#### Views of Employers' Organisations

9.14 With regard to the proposal for computation of bonus as percentage of gross profits after deducting depreciation only, the Council of Indian Employers in its memorandum has stated that it has carefully considered this alternative proposal and feels that the proposed formula is fundamentally wrong in principle and unworkable in practice. The Council is strongly opposed to the proposal which seeks to eliminate all the existing prior charges, except depreciation. In the Council's view this virtually confers on bonus the status of a prior charge and is an ingenious way of giving bonus the meaning of a 'deferred wage.' The Council further feels that the impact of the new formula on the development and modernization of the concern would, no doubt vary from industry to industry. It would hit hard particularly those industries which are labour-intensive in character, as for example, the Cotton Textiles, Jute Textiles, Tea Plantations and Engineering. In these industries, the level of profit is generally low in comparison with the outlay on gross wages comprising basic pay plus dearness allowance. The Council considers that the proposal for bonus based on gross profits minus depreciation is misconceived and wrong in principle. In its view, bonus can only be a share in the profits, after the prior and necessary charges have been deducted from the gross profits. The proposal for revision of the formula on the basis of division of gross profits minus depreciation ignores the legitimate claims of the shareholders for fair return on capital and of industry for replacement and modernisation. This very proposal was rejected by the Bonus Commission (*vide* paragraph 5.8 of the Report) and the Council is of the view that the existing formula is fairly simple and takes a balanced view of the rights and obligations of both industry and labour.

## Views of the Committee

### *The Alternative of Collective Bargaining*

9.15 The Committee has carefully considered the alternatives to the present formula. The alternative of collective bargaining above the minimum sounds easy and simple. It has considerable attractions and some essential merit. But its principal drawback arises from the fact that collective bargaining may not always provide a solution and recourse to adjudication may not be avoidable in certain circumstances. In such case, the authority to whom disputes might be referred would be without any guidelines for the framework of its decisions. The idea underlying a formula is precisely to furnish the guidelines or framework for decisions, especially in difficult situations. Simple as it might seem, therefore, the approach of almost exclusive reliance on collective bargaining over and above a minimum bonus has—reluctantly—to be eschewed.

### Bonus as a proportion of gross profits

9.16 The alternative of a percentage of gross profits either before depreciation or after deducting depreciation, to be declared straightaway as bonus with a minimum and maximum and 'set off' and 'set on', has a certain spacious simplicity about it and seems likely to make short shrift of several complex issues surrounding bonus which give rise to disputes. However, the simplified basis for bonus embodied in this approach is open to some serious objections which are set out below.

9.17 In the first place, it does not provide for any prior deduction of a Governmental share in the profits of a unit before proceeding to allocate the gross profits between employees and employers, and in effect insulates the employees' share from any variation in the incidence of taxation which may be made, owing to the exigencies of State, whether on account of the needs of defence or development. As such, the adoption of such an approach is likely to restrict the room for resilience and impair the flexibility of Government's fiscal policies.

9.18 It might be assumed that since taxation is a proportion of an establishment's gross profits, theoretically it should be possible not to deduct taxation and achieve the same result (*viz.*, of deducting taxation) by allocating a smaller proportion of gross profits to bonus. But a problem that arises in this context is that the ratio of taxation to gross profits or gross income varies widely between foreign companies, Indian companies, partnerships and individual proprietary firms. Deducting a *uniform* proportion of gross profits and allocating the same to bonus might mean that taxation on the whole of the gross profits which is at differing rates for different categories of employers, would have to be met out of the balance of gross profits left to the concern. The differences in the incidence of taxation, appropriate by themselves, might thus be further—sometimes greatly-magnified. Alternatively, the efficacy of the tax instrument would become more limited.

9.19 It is true that bonus when paid is a deductible expense for the subsequent year and, as it is, Government loses the tax on the part of profit which goes as bonus, but the figure of bonus is arrived at after first deducting tax (*e.g.*, in a year when substantial profit is made, following a year of modest profit and moderate bonus deduction) and this method still reflects a certain recognition of the State's prior claim. Since we have been enjoined before finalising our recommendations to take into account the repercussions thereof on the national economy, we must rule out an alternative which does not provide for prior deduction of taxation as not being in the interests of the national economy.

9.20 A second serious drawback of the proportion-of-gross-profits approach is that though it provides for a minimum bonus over and above wages and benefits for employees, it makes no provision for any return on the capital invested in an enterprise before proceeding to allocate the residual profit between employees and employers, and makes employees entitled to a prior share of gross profits even when these are inadequate to provide for a minimal return on the invested funds of an enterprise. Considering the need for maintaining the incentive to productive investment of capital both in the public and private sectors, a return on the invested capital should form a deduction, especially now that a minimum bonus is available to employees as the first claim on any profits (or even without profits), before the remainder of profits is allocated among various claimants to such a residual.

9.21 The need of providing for a return on capital should also be considered in terms of the relative treatment of borrowed funds as against risk capital and owned funds. Borrowed capital gets its return before the claim for bonus comes up. If an undue premium in the scheme of organisation of business is not to be placed on borrowing of capital, it is necessary that risk capital and owned funds should also have at least a reasonable or minimal return before a claim for bonus above the minimum is conceded. So long as the system of our productive organisation continues as it is, with reliance on risk capital as a prime mover of investment, not to allow a minimal return on it before starting the distribution of profits in what amounts to a second round for the employees, who have already received their wages/salaries and allowances and minimum bonus, would not be a sound basis for organisation of the system. It would not be sound from the point of view of working toward viability of giant public sector projects in which massive investments are made or of projects generally, whether in the private or public sector, which have a longer gestation period. Nor would such a system have a precedent in the systems of bonus prevalent in other countries, even including socialist States. These latter States place a considerable emphasis on performance (as measured by fulfilment of targets) in their bonus schemes. In the context of a scheme of statutory, country-wide bonus, which is almost unique in the world, the question does arise if we should not seek to ensure that it is based on sound

principles, and is so devised that it is not calculated to weaken the foundation of the system of productive organisation.

#### The composite approach

9.22 The alternative of the equivalent of a minimum bonus as universal standard bonus with a separate pure profit-sharing bonus over and above it, proposed by INTUC as the third of the four alternatives mentioned by it, raises the conceptual problem of setting up two forms of bonus--one an annual wage irrespective of any relation whatever to profit and, therefore, presumably applicable over a much wider area than the present profit bonus, and another, the profit bonus shorn of its minimum bonus element which would already have been separately provided to employees as a universal standard bonus. It is not clear to us that the Committee which has been asked to consider suitable modifications in the present scheme of bonus can at all recommend a type of bonus, *viz.*, universal standard bonus which has no semblance of likeness to the present profit-sharing bonus. On the merits of its application to the current brand of bonus it would readily appear that the combination of the two bonuses would imply raising, even though marginally, the level of both bonuses together above the present minimum for a large sector of industry where only moderate profits which yield a bonus lower than the minimum are made. This would obviously be harsher for industry generally and unacceptable to employers at a time when the minimum bonus has also been raised. The above proposal has a certain resemblance to another proposal put forward to us. This proposal envisages the merger in wage/salary of the old statutory minimum bonus level of 4 per cent and the grant of any balance of bonus in the form of a productivity or profit bonus with the balance of the present minimum bonus equal to 4½ per cent being made a good conduct-cum-attendance bonus. The main snag of this proposal is that its effort to find a way round the minimum bonus as an element of the bonus scheme is likely to run up against the proverbial short-lived public memory; the merger of the 4 per cent minimum bonus in wages might soon be forgotten and a demand might arise again for a new minimum bonus in what remains of the system.

#### Modification of the present formula

9.23 In view of the above serious shortcomings of the various alternatives to the formula which have been mooted, we come to the fourth alternative referred to in paragraph 9.10 above, which is to consider the determination of bonus within the broad framework of the present formula. This formula seeks to provide for various necessary deductions and prior charges before allocation of the surplus over and above the necessary provisions between bonus for employees on the one hand and other claims, *e.g.*, of the company, the shareholders, additional welfare benefits for employees, etc., on the other hand. This brings us to a review of the main elements of the present formula with a view to considering any necessary changes therein in the light of the evidence and views submitted to the Committee and our own findings.

#### Add-Backs and deductions for computation of gross profit

9.24. We take up first the question of the add-backs to and deductions from gross profits. A major complaint of the labour organisations concerns the deductions made as a provision for gratuity since the decision of the Supreme Court in the case of Metal Box Co. (August 1968) that such provision if made on a realistic discounted basis was admissible as expenditure before arriving at net profits of a concern. The demand made on behalf of employees is that the annual amount payable as gratuity under the Payment of Gratuity Act, 1972, for the accounting year in question should be debited to the profit and loss account; if more than this amount is debited either as a payment or as provision either for that year or relating to previous year or years, the excess shall be added back to the net profits as being extraneous to that year.

9.25. It strikes us that the basis suggested above is tenable and a consistent one for purposes of calculation of bonus and that it could be adopted for the future with the modification that either the payment made during the year or the provision due and made for the year, whichever is higher, may be taken. However, in terms of the position under law as prevailing now, various sums have already been debited by different concerns to the profit and loss account and bonus has been determined on the basis of the position thus prevalent under the law. We suggest that the bonus payments which have been made should not be subject to review in the light of our recommendations which would hold for the future, unless any agreements specifically provide that their outcome is linked to the Committee's recommendations in which case again our preference against revising past bonus payments would have to be taken into account.

9.26. The question also arises as to what should be treatment for bonus purposes of payment or provision for gratuity on behalf of employees otherwise than and larger than the statutory obligation under the Gratuity Act. We consider that the guiding criterion for deductibility of the payments or provisions for gratuity should be that all payments or provisions for the year will be deductible provided these are not higher than at the rates of payment and provisions for the year applicable to employees who are eligible for bonus under the Payment of Bonus Act. Any higher payments or provisions than in respect of such employees should not be deductible.

9.27. Another demand made on behalf of employees with a view to increasing the available surplus is that incentives or subsidies given to an establishment should not be deducted from the gross profits and if already deducted should be added back. The majority of the Committee considers that this demand is based on good reasoning. A subsidy or incentive is given for the encouragement of an activity, *e.g.* greater production or exports of goods or services. Since labour and capital work together to contribute to

the outcome for which an incentive or subsidy is given, the case for deduction in all cases of the value of an incentive or subsidy as required under the Second Schedule at present is neither clear nor strong. This applies to all general rebates or indirect reliefs or assistance given as lower rates of customs duties, excise duties, railway freights, import entitlements, etc. in favour of specific sectors, industries or establishments. Any improvement in profitability of working of an establishment resulting from general rebates or indirect subsidies should accrue to the credit of the available surplus (bonus pool). On the other hand, however, it seems desirable not to deprive Parliament of the instrument which it has at present, of giving cash subsidies for specific stated purposes, and subject to the condition of the funds being actually so utilised, so as to ensure its maximum effectiveness. This would be ensured if 100 per cent of the cash subsidy given were used for the promotion or development of the purpose for which it is given. If 60 per cent of a cash subsidy were intercepted as the share of employees in the form of addition to the bonus pool, Government would have to place the amount of a cash subsidy at 250% in order to ensure that the same amount of benefit reaches the intended beneficiaries. The resources of the Government are not elastic enough for the purpose.

**9.28.** Economic treatises recognise the merits of direct cash subsidies as against indirect protection or assistance given to an industry inasmuch as such direct cash allocations of budgetary funds require sanction of Parliament and afford the opportunity of a full review of the circumstances and justification, economic and otherwise, of such direct cash subsidies. We assume that this opportunity could be availed of, henceforth, by Parliament also to scrutinise the purpose, effectiveness and arrangements for disbursement of direct cash subsidies in the awareness that such subsidies stand apart from all other and indirect incentives, rebates and assistance to establishments and would not accrue to the available surplus for bonus. The majority of the Committee suggests accordingly that item 6(g) in the Second Schedule should be amended so as to be restricted to cash subsidies disbursed through budgetary grants whether made directly or through an agency, for specified purposes the proceeds of which are reserved for these purposes, and not all subsidies. This amendment would reflect clearly in the law the import of the recent judgement of the Supreme Court (1972 I LLJ, p. 102) on the subject.

**9.29.** The above relates to cases where the concern which receives the subsidy is the ultimate beneficiary. The position of banks acting as an intermediary for passing on a subsidy received from one source (e.g., Government) to a beneficiary other than themselves (e.g., exporter) is different. In such case, the bank has not received any part of the subsidy and the subsidy should not be added to the Bank's available surplus (bonus pool), and should, therefore, continue to be deducted.

**9.30** Sarvashri Ramanujam and Mahesh Desai are opposed to deduction of any and all subsidies or incentives, including cash subsidies, from the gross profits, before arriving at the available surplus.

**9.31** The Committee has been informed that sometimes after following the written-down value method of depreciation for a number of years, a company has effected a shift to the straight line method, and transferred the difference in the amounts of depreciation under the two methods to an additional reserve, the equivalent of this reserve amount having already been part of the depreciation under the written-down value method (which entails larger depreciation in earlier years) and as such been deducted from gross profits (and, therefore, available surplus) for earlier years. Thus after creation of the reserve, the amount of the reserve, which has already figured as a deduction, has formed the base of a fresh deduction at the rate of a return of 6 per cent on the reserve thus created. We believe that altering the computation of bonus in the manner described above will not be proper or sustainable and we have not looked into any specific instances of this kind but we consider that such a practice, if adopted, would be clearly inequitable to labour, and suggest that the point may be examined further and recourse to such device of erosion of gross profits and, thereby, diminution of the available surplus should, if necessary, be barred.

**9.32** Another loop-hole which we think should be plugged arises out of the creation of capital reserves, unlike the ordinary additions to reserves which come from allocations out of annual profits, through revaluation of assets, otherwise than through a possible change in the method of depreciation which has been considered in the last paragraph. It appears desirable to exclude such capital reserves accruing in consequence of revaluation of assets from reserves on which a return should be deducted from gross profits for computing the available surplus. Nor should capitalised reserves arising out of revaluation of assets be eligible for a return which might be equal to that on capital. Other capital reserves, or reserves converted into capital, arising, e.g., out of premium on shares or profit from sale of forfeited shares should, of course, be eligible for the return on reserves or paid-up capital for reasons which were fully set out by the Bonus Commission.

### Depreciation

**9.33** The present bonus formula provides for deduction of depreciation before distribution of bonus; even the proportion-of-gross-profits approach acknowledges the need for providing for deduction of depreciation. A view has been put forward, however, that statutory depreciation under the Income-tax Act tends to allow a larger deduction than many concerns actually provide in their books, and the depreciation to be allowed should be the statutory depreciation or the actual book depreciation, whichever is less.

9.34 The adoption of a suggestion to take either statutory or actual depreciation, whichever is less, suffers from the drawback that this method would involve the mixing up of statutory depreciation allowed in the past with actual depreciation to be allowed in some of the future years and by tending on the whole to reduce the depreciation charged would lengthen the period over which an asset is depreciated. We would prefer to adhere to the present basis of statutory depreciation as under the Income-tax Act, which has worked satisfactorily so far; if under the written-down value method adopted under the statute more depreciation is deducted in earlier years than under the straight line method, less is deducted in later years. In terms of our proposal, initial depreciation would be deducted like ordinary depreciation wherever admissible under the Income-tax Act. Sarvashri Ramanujam and Mahesh Desai would specifically exclude deduction of initial depreciation, and would restrict deduction of depreciation to normal and extra shift depreciation under the Income-tax Act.

#### **Development Rebate**

9.35 Sarvashri Mahesh Desai and Ramanujam are opposed to deduction of development rebate or its equivalent as a prior charge for purposes of computation of bonus, and re-call that the bonus Commission did not recommend it. Sarvashri Bhat and Harish Mahindra not only want the present treatment of development rebate in the formula retained, but in the face of the announced withdrawal of development rebate, suggest introduction of a rehabilitation allowance in the bonus formula; the Committee on Profit-Sharing in 1948 had recommended 10 per cent of the net profits as a first charge to be carried to reserves for this purpose. They consider that in the absence of a rehabilitation allowance, the case for a higher return on capital would be further reinforced. The Chairman, Shri Billimoria and Dr. Punekar have no change to suggest in respect of the treatment of development rebate in the present formula for purposes of calculation of bonus. They note that development rebate might lapse, but the possibility of an equivalent of development rebate continuing remains. They would like the development rebate if it is continued, or its equivalent, to be taken into account in computing the available surplus.

#### **Taxation**

9.36 It is recommended by the majority of the Committee that direct taxes should be allowed to be deducted at the rates applicable under the respective Acts for the year in question on the balance of gross profits after depreciation. Taxation may, therefore, be deducted accordingly from gross profits after depreciation and development rebate where admissible.

9.37 Section 7(b) of the Payment of Bonus Act provides as follows :—

"where the employer is a religious or a charitable institution to which the provisions of section 32 do not apply and the whole or any part of

its income is exempt from tax under the Income-tax Act, then, with respect to the income so exempted, such institution shall be treated as if it were a company in which the public are substantially interested within the meaning of that Act;"

It has been proposed to the Committee on behalf of labour that charitable institutions should not be treated as companies and as if the company rate of direct tax applies to them with the result of reducing the bonus payable by them. This proposal is favoured by the two labour representatives on the Committee. On the other hand, the majority of the Committee does not favour any change in the provision as it stands at present. The provision is intended to conserve the benefit of direct tax exemption for the specific purpose or furtherance of the activity for which it is granted and to avoid the tax benefit being added to the available surplus for bonus.

9.38 The Committee recommends that the benefit of tax rebate in terms of the 1969 amendment should continue to accrue to the available surplus. The majority of the Committee considers that inasmuch as the tax rebate was originally intended to be added to the 40% share of the employer to enable him to meet the rising costs of maintenance and modernisation of plant and equipment etc., some equivalent of the development rebate should be substituted, if the development rebate is discontinued, and allowed for purposes of bonus computation. Sarvashri Ramanujam and Mahesh Desai dissent from the latter recommendation.

#### **Return on Paid-up Capital and Reserves**

9.39. The next important issue that arises concerns the rate of return on paid-up capital and reserves which may be deducted before distribution of bonus. On this, the views of employees and employers as presented to the Committee are sharply divided. Some of the employees' organisations have asked for a reduction in the return to be provided on paid-up capital to 7 per cent as against the present 8.5 per cent and on reserves to 4 to nil per cent from the present 6 per cent on the ground that even now bonus agreements are being arrived at by the parties on this basis in the textile industry (in Bombay, Ahmedabad and Coimbatore) which fathered the bonus formula. The main grounds urged for such reduction in the return are that the rates of return at present provided in the Act were fixed in accordance with the Minute of Dissent to the Bonus Commission, the majority having recommended lower returns. Besides, in favour of a nil return on reserves, the point is sometimes advanced that the reserves belong jointly to labour and to capital or management and no specific return should be deducted on these before allocation of the residual of profit between employers and employees.

9.40 On the other hand, employers have asked for deduction of return at a higher rate on capital and reserves on the following grounds:

- (i) The rates of return at present provided under the Act, apart from having been recommended

in the Minute of Dissent to the Bonus Commission Report, were supported by the Minister for Labour in presenting the Payment of Bonus Bill for consideration by Parliament on the ground that since the report of the Bonus Commission two specific changes had occurred which justified the provision of a return higher than that recommended by the Commission in its report. (a) firstly, "the prevalent rates of interest today" as against the rates obtaining at the time the Commission made its report the Bank Rate which was 4 to 4½ per cent at the time the Commission reported had risen by the time the Bill was presented to 6 per cent; (b) a change in the system of direct taxation meanwhile, in terms of which tax was to be deducted in the hands of the recipients as against having been deducted earlier as part of the corporation tax, and a higher deduction was, therefore, also justified on this account. The Labour Minister described the second reason for his proposal of the rates of return on capital and reserves as follows: ".....the fact that the rate allowed now is taxable whereas earlier it was not taxable. In fact, under the Labour Appellate Tribunal formula, more or less 6 per cent and 2 to 4 per cent were allowed respectively, and at that time, they were not taxable. Today 8.5 per cent and 6 per cent are taxable. If the rates allowed under the Labour Appellate Tribunal formula were subject to taxation, they will work out to the same thing as 8.5 per cent and 6 per cent, respectively. Therefore, for these two reasons we have accepted these rates".\*

(ii) Rates of interest as judged by the Bank Rate, the long-term lending and borrowing rates, the rates of return adopted as a basis for public sector investment and those assumed for calculations of cost for the purpose of price control, had been generally revised upwards during the last 8 or 9 years.

(iii) The rationale of a lower return on reserves than on paid-up capital is also open to question. Both represent elements of investors' or shareholders' funds and the basis of distinction in the rate of return as between the two does not seem to be very clear. Since interest has to be paid on borrowed funds and this is without question an allowable deduction, the non-provision of a return on reserves or provision of an especially low rate of returns, lacks justification, since reserves are used to reduce the need for borrowing, and as an alternative to additional borrowing.

9.41 The Chairman, Shri Billimoria and Dr. Punekar appreciate the force of some of the reasoning against continuing to make a distinction between the rate of return on paid-up capital and on reserves. Against the background of the present high interest

rate pattern which has acquired a worldwide currency in the context of the universal need to combat inflation, the distinction could be abolished only by raising the rate of return on reserves to the level of the return on paid-up capital. However, a distinction between the two returns has been recognised for a long time and has become embedded in the structure of the bonus formula, deriving some support from the claim of labour to a measure of sharing of the benefits of substantial reserves of companies. On the whole, they consider the distinction might as well continue. Sarvashri Ramanujam and Mahesh Desai concur in continuing to make the distinction between return on paid-up capital and reserves. Sarvashri Bhat and Mahindra would favour a uniform return on capital and reserves.

9.42 The Chairman, Shri Billimoria and Dr. Punekar have considered the arguments for and against a lowering of the rate of return to be allowed on paid-up capital and reserves and the arguments for providing for a higher return on invested funds in the enterprise in the present capital market and money market context. The interest-rate pattern in general has moved further sharply upward since these rates of return were fixed, and any lowering of these rates would seriously impair the basis of working of the formula. The most recent increase in the bank rate and in the entire interest-rate structure which seems likely to settle into a lasting pattern finally rules out the possibility of any consideration of a lowering of the rates of return on owned funds. On balance, after duly considering the arguments for reduction or increase in the rates of return the Chairman Shri Billimoria and Dr. Punekar suggest maintaining the present basis and level of computation of the deduction of the rates of return on paid-up capital and reserves as prescribed in the law as at present. Sarvashri Ramanujam and Mahesh Desai dissent from the above view and favour a lowering of the rate of return on paid-up capital and reserves to 7 per cent and 4 per cent respectively. Sarvashri Bhat and Harish Mahindra, on the other hand, propose that the rate of return on capital which should comprise both paid-up capital and reserves, being the shareholders' funds, should be raised from the present 8.5 per cent and 6 per cent respectively to at least 12 per cent for both elements.

#### Proportion of available surplus for bonus

9.43 In regard to the division of the available surplus after providing for depreciation, taxation and return on paid-up capital and reserves, there is again a sharp cleavage in the views presented to the Committee on behalf of labour and employers. On behalf of labour it has been urged that a higher proportion of the balance than at present given to labour as bonus should be so allocated, having regard, for one thing, to the fact that the trend of recent bonus settlements has been towards higher bonuses than what the bonus formula yields, and this should be recognised in a change in the proportion in favour of labour. A change in the proportion is also suggested

on the score of the need for providing a higher supplement to wages through bonus in an era of constantly rising prices and costs of living.

9.44 On the other hand, the employers have urged an increase in the proportion to be allocated to employers from the present 40% to 50% on the following main grounds:

- (i) With abolition of the development rebate (in lieu of the earlier rehabilitation allowance), the problem of maintaining the assets of the enterprise would become more difficult and these assets would have to be maintained out of the allocation to the share of the company or the employers.
- (ii) The benefit of tax rebate which was available to employers and was offered as a specific reason by the Bonus Commission for placing the proportion of employers' share at 40% (as against 50 per cent), had lapsed in terms of the amendment to the Payment of Bonus Act in 1969; the tax rebate is now added to the following year's distributable bonus pool.
- (iii) The prices of machinery and costs of replacement of equipment had risen substantially in the last few years and the ordinary basis of 100 per cent depreciation did not enable replacement of the assets.
- (iv) A higher minimum bonus irrespective of profits during the year and the resultant draft on the reserves and resources of concerns left no room for a further shift in the distribution of the available surplus in favour of employees.
- (v) The system of wage revision and dearness allowance provided reasonable compensation for rising prices and costs of living, and was

in any case the method of providing compensation against such trends.

9.45 The Chairman, Shri Billimoria and Dr. Punekar think that, on balance, the case for adhering to the present proportion of division viz., 60 : 40, is, in general a very good one; they consider that for foreign companies the present proportion of division viz., 67 : 33 may also continue. The fact of a higher minimum bonus having to be paid in the event of continued unprofitable working of an enterprise has to be taken into account in determining the proportion of allocation of the available surplus. They consider that the effect of an increase in the minimum bonus which represents an important adjustment in the scheme of bonus should be observed over a period. There are other significant changes favourable to employees which they have recommended e.g., the rate and limits of maximum bonus, the changes in the add-backs and deductions from gross profits which taken together with the increase in minimum and maximum bonus will make the operation of the formula appreciably more favourable to the employees.

9.46. Shri G. Ramanujam suggests that out of the available surplus, the allocable surplus should be raised to 75 per cent from the present 60 per cent. Shri Mahesh Desai is against having a formula for computing bonus above the minimum. He favours collective bargaining for the determination of bonus above the minimum from year to year and from establishment to establishment. Whatever approach or method is adopted, Shri Mahesh Desai favours an outcome in terms of augmentation of the workers' earnings on account of bonus at all levels—the minimum, the intermediary and the maximum. This would indicate the concept of bonus as deferred wage which he supports. Sarvashri N.S. Bhat and Harish Mahindra favour a division of the available surplus in the proportion of 50 : 50 between allocable surplus and employer's share.

## CHAPTER X

### MAXIMUM BONUS, WAGE/SALARY LIMITS FOR BONUS AND NON-CASH BONUS

An important question in regard to the structure of bonus specifically referred to the Committee under its terms of reference concerns the maximum rate of bonus. The issues that have been raised in regard to this question are : Should there be a ceiling on the rate of bonus, and if so should the present maximum rate of 20 per cent be increased, lowered or maintained ?

10.2 The essential rationale of maximum bonus was spelt out by the Bonus Commission. The Commission recalled in this regard the principles laid down by the Labour Appellate Tribunal in the case of Burmah Shell and other Oil Companies to the effect that excessive bonus was not to be awarded. These were based on their observation that "bonus must have some relation to wages. It is intended to supplement wages and not to double or multiply it." Also since bonus was a deductible expense before computation of taxable profits, a generous bonus was given substantially at the cost of the Union Exchequer and was a burden really on the consumer tax-payer.

10.3 Labour organisations have argued for an increase in the maximum rate of bonus on the score alike of an increase in minimum bonus, the trend of actual bonus settlements and the need generally to increase labour's share of the distributable profits. Some organisations have asked for increase in the maximum rate of bonus up to 33 to 40 per cent, while others have suggested that the maximum bonus may be permitted to "drift" with the bargaining power of the workmen. One State Government has suggested increase in the maximum bonus to 25 per cent. There has also been some expression of opinion in favour of removal of a ceiling on the rate of bonus, directly or by transfer of the 'set on' amounts after a period to the credit of employees, whether in cash or social welfare benefits.

10.4 On the other hand, some employers have suggested retention of the present maximum, while others have argued for a reduction in the rate of maximum bonus from the present 20 to 16 per cent. On the ground that an increase in the minimum bonus limits the capacity of many enterprises to maintain the same rate of maximum bonus, owing to the need to plough some of the profits for maintenance of the rate of minimum bonus in years of loss or inadequate profits. A few employers would agree to an increase of the maximum if it were linked to productivity.

10.5 In appraising the case for a change in the maximum rate of bonus, we have to acknowledge that the arguments for an increase in the minimum bonus do not, as such, apply to maximum bonus. The two are far ends of a spectrum and the rationale applicable to the two is very different. It has been observed

that rates of bonus tend to be high in concerns where rates of wages also are high and if inordinately high rates of bonus are allowed to prevail—and a high maximum rate would encourage these—this might further widen the disparities in the scales of total remuneration of labour inclusive of bonus in units and in industries.

10.6 A conclusive reason for having a maximum rate of bonus arises from a uniform or fixed ratio (*viz.*, 60 per cent) being applied to the available surplus in all cases to arrive at the allocable surplus, though such a uniform ratio is, indeed, inappropriate owing to the wide range of variation in the capital-intensity or labour-intensity of different productive units. In the French system for the regulation of profit-sharing bonus, under the Ordinance of 1967, for example, the ratio of amount of salaries to value-added in a concern is applied to arrive at the 'special reserve of participation' in a unit. Such a ratio has been often referred to during discussions on similar issues in India as the wages V.A.M. (Value—added-to manufacture) ratio, which again has a considerable range. If this ratio were applied to arrive at the allocable surplus from the available surplus, the maximum might lose its principal function, as the ratio would itself serve to limit the allocable surplus to an amount in tune with the varying contribution of labour from one unit to another. However, the ratio is inapplicable to commercial and financial units and the Committee, having considered the question of its applicability, has decided against trying to import such a ratio into the formula to avoid the formula becoming more complex and uneven in operation.

10.7 The fact that a maximum is unavoidable under any scheme in terms of which a uniform proportion of available surplus or profits is distributed as bonus, will be clear from a few examples of the likely result of application of the (uniform) ratio of 60 per cent without placing a ceiling in terms of the rate of maximum bonus. In the State Trading Corporation of India in 1971-72, the allocable surplus in terms of the present formula was Rs. 5.55 crores while the total wages and salaries of employees to whom bonus was payable were of the order of Rs. 96 lakhs. If the entire allocable surplus were given as bonus, the rate of bonus would be nearly 600 per cent of the annual wages/salaries of the personnel. In the Industrial Credit and Investment Corporation of India the allocable surplus and total wages and salaries in 1970 were Rs. 47.35 lakhs and Rs. 22.65 lakhs respectively. The rate of bonus in the absence of a maximum would have been over 200 per cent. To add one more illustration,

in 1971-72, in terms of the existing formula the allocable surplus of the Cashew Corporation (a Government of India Undertaking) was Rs. 37.4 lakhs, its total wages etc. eligible for bonus were of the order of Rs. 1.5 lakhs and the rate of bonus—in the absence of a maximum would have been 2,500 per cent. These cases are illustrative of categories and bring out the inappropriateness of a high common ratio which is completely unsuitable for application to concerns in widely divergent situations, without regard, especially, to the ratio of wages to gross expenses. In some cases, a comparative handful of operatives and other personnel might be given to work sophisticated and costly equipment which together might produce an enormous financial surplus. Or, as in a financial institution or state commercial enterprise, a few hundred employees might disburse some tens of crores of rupees, partly raised on Government guarantee, or build up a turnover of hundreds of crores of rupees with the compulsive power of the State used essentially as a taxing instrument, with unusually good financial results. The maximum thus becomes necessary primarily as a means of containing the excesses resulting from the application of a uniform ratio of allocation to industries and establishments, including trading and financial units, of widely varying capital/labour-intensity.

10.8 In view of the reasons spelt out in the above paragraphs we are not in favour of removing the ceiling on bonus.

10.9 We are also not in favour of reducing the present maximum rate of bonus. Sarvashri Bhat and Mahindra, however, suggest that in order to enable industry to meet the additional liability of higher minimum bonus in lean years, the maximum should be reduced from 20 per cent to 16 per cent.

10.10 Taking everything into account, the Chairman, Shri G. Ramanujam, Shri R.P. Billimoria and Dr. S. D. Punekar recommend that the maximum may be raised to 25 per cent. Shri Mahesh Desai is opposed to a ceiling on bonus. The support of the Chairman, Shri Billimoria and Dr. Punekar to an increase in the maximum rate of bonus to 25 per cent is subject to a proviso which is stated in paragraph 10.13 below.

#### **Salary limits for bonus eligibility**

10.11 Under the Bonus Act, the employees drawing pay up to Rs. 1,600 per month are eligible to receive bonus. However, under section 12 of the Act, the bonus payable to employees in the salary range between Rs. 750 and Rs. 1,600 per month is required to be calculated on the basis of a salary of Rs. 750 per month only. We consider that there is need for utmost caution in extending the obligations of concerns in respect of compulsory payment of bonus to sectors of employees who are comparatively better paid. However, the present ceilings have adversely affected, over the years, junior supervisors and even clerks and managers who constitute a very important part of an establishment and who contribute vitally to the profitability of an organisation. An increase also has a justification in an all-round erosion in the

value of money which warrants some stepping up in the present limits. The Committee, therefore, unanimously recommends that the national ceiling of Rs. 750 p. m. under Section 12 should be raised to Rs. 1,000 per month and the salary limit of Rs. 1,600 under section 2(13) should be raised to Rs. 2,000 per month.

10.12 The provision for 'set on' and its period at four years may be retained. The limit of amount of 'set on' in any one year may be placed at 25 per cent of the wage and salary bill of eligible employees, viz., equal to the annual amount of bonus at the maximum rate recommended by the majority of the Committee. Sarvashri Bhat and Mahindra have recommended a maximum bonus of 16 per cent and propose that the 'set on' may also be placed at the same figure.

#### **Payment of bonus in forms other than cash**

10.13 The Chairman, Shri Billimoria and Dr. Punekar recommend that additional bonuses over and above the present maximum rate of 20 per cent should not be disbursed in cash to employees drawing wages/salaries above Rs. 1,000 per month. Such disbursement cannot be recommended in the present state of the economy or on a prospective view of it. It cannot be argued that the need for payment in cash in respect of additional high rates of bonus *above the present maximum* to employees drawing salaries above a limit is on a par with the need for cash payment of the bonus at lower rates to employees drawing lower salaries. This question is related to the limits of salary up to which bonus under the Act may be payable an increase in which has been recommended by the Committee in the last paragraph. An increase in the level of salary up to which the full rate of bonus payable is applicable from Rs. 750 to Rs. 1,000 per mensem and an increase in the maximum rate of bonus to 25 per cent (from 20 per cent) would imply an increase in the amount of maximum bonus payable under law from Rs. 1,800 to 3,000.

10.14 What the Chairman, Shri Billimora and Dr. Punekar are concerned with the need at the same time that an increase in the highest rate of bonus is effected, of building up some defences within the system against the inevitable inflationary repercussions of larger bonus payments. The three members, therefore, suggest the non-cash form of bonus payment for the higher rates of bonus above 20 per cent to the relatively higher-paid employees, viz., those drawing wage/salary above Rs. 1,000. They would limit the stipulation of payment of bonus in non-cash form to such receipts by the comparatively better paid employees when and to the extent they receive bonus at a rate higher than the present maximum rate.

10.15 In other countries systems of bonus or lump sum annual payments are used to a significant extent to improve the retirement benefits of the employee population as well as for reinforcement of the savings media for mobilisation of resources for higher investment in the economy. The three members consider that the potentiality of bonus in this regard should

not be overlooked, especially when the question of an increase in the monetary limits for bonus, whether in regard to the proportion of salary as bonus or the limit of salary up to which employees will be eligible for bonus, are considered.

10.16 Bonus payments are also being made by employers on a voluntary basis out of the employers' share of allocable surplus, to employees drawing salaries above the limits prescribed in the bonus law. It would be invidious for such payments, which are to higher-paid employees, to continue to be disbursed in cash, if bonus payments made under the law are regulated as proposed above. All such bonus payments at rates higher than the present maximum rate under the bonus law, *viz.*, 20 per cent, made to employees drawing salaries above the limits for eligibility to bonus (*viz.*, above Rs. 2,000 per month) should also be required to be made, similarly, in non-cash form. The three members recognise that regulation of the form of bonus payment in an area which lies outside the scope of the bonus legislation might at first thought not seem appropriate. In terms of the rationale set out above, however, if the FORM of payment of bonus in terms of the Act were to be regulated as recommended they would consider it not inappropriate to regulate similarly the *form* of payments

of the same type as bonus, above the limit of wage/salary for payment of bonus.

10.17 The Chairman, Shri Billimoria and Dr. Punekar are aware that the alternative at present offered to employees to place a part of their bonus receipts in the Provident Fund, which is available to them only after a long time interval or for specified purposes, has not been popular or acceptable and the provision in this regard made in the law for 1972 has been rescinded in 1973. They consider, however, that the same objection cannot apply to a new form of non-cash payment as a credit to a special 5-year fund or 5-year fixed deposit (or equivalent insurance policy, the details of which can be worked out), which would have the effect of only temporarily freezing additional liquidity generated by the higher bonus payments. They recommend that the form of non-cash payment can be suitably devised on the lines suggested above.

10.18 With the improvements suggested in the last chapter besides the increase in minimum bonus and the change proposed in maximum bonus, the Chairman, Shri Billimoria and Dr. Punekar believe the bonus formula should serve adequately for the future to hold the scales between different claimants to the distributable pool or available surplus.



## CHAPTER XI

### COLLECTIVE BARGAINING AND PROVISIONS OF SECTION 34(3)

By virtue of the provisions contained in section 22 of the Payment of Bonus Act whenever a dispute arises between the employer and his employees with respect to bonus payable under the Act, it is deemed to be an industrial dispute within the meaning of the Industrial Disputes Act and the provisions of that Act or other relevant State Act apply for settlement of the dispute. This means that the machinery of industrial adjudication is available for settlement of bonus disputes. Where a bonus dispute is not settled between the parties by agreement or in conciliation proceedings it is referred for adjudication to an Industrial Tribunal or, where State machinery prevails, to the Industrial Court or Tribunal in the respective State. The Payment of Bonus Act also contains a provision under section 34(3) for settlement of bonus by the process of collective bargaining. Section 34(3) is worded as follows:—

“Nothing contained in this Act shall be construed to preclude employees employed in any establishment or class of establishments from entering into agreement with their employer for granting them an amount of bonus under a formula which is different from that under this Act :—

Provided that any such agreement whereby the employees relinquish their right to receive the minimum bonus under section 10 shall be null and void in so far as it purports to deprive them of such right.”

11.2 It is difficult to say how many of the bonus disputes in practice have been resolved by the parties themselves by an agreement, settled through conciliation or referred to Industrial Tribunals. However, there appears to be a trend in favour of utilising the provisions of section 34(3) for arriving at an agreement by the employees with the employers under a formula or arrangement different from that prescribed under the Act.

11.3 The question that arises for consideration is whether bonus should be decided by an admixture of collective bargaining over and above legislative regulation, by virtue of the provisions of section 34(3) as at present, or, a clear legislative framework having been prescribed for the basis of payment of bonus, and this having been elaborately reviewed, recourse to the process of collective bargaining in relation to bonus under section 34(3) should be dispensed with. Simply put, the issue is whether section 34(3) should be deleted, retained as it is, or modified in any manner.

11.4 Trade Union Organisations and Employers' Organisations have given diametrically opposing views regarding how the provisions of section 34(3) have

been utilised in bonus disputes and regarding the desirability of retention of section 34(3) in the future legislation. These views are summarised in the following paragraphs.

#### Views of Trade Union Organisations

11.5 All the Trade Union Organisations which have submitted evidence before the Committee are of the view that the provisions of section 34(3) should be retained. The INTUC in its memorandum suggests that section 34(3) should be continued so that the parties are free to enter into any sort of agreed arrangement relating to payment of bonus outside any formula that may be prescribed in the Act. The present provision provides scope for collective bargaining to complement the provisions of the Act.

11.6 The Hind Mazdoor Sabha (HMS) states as follows : “Our preference is for deciding the quantum of bonus above the minimum directly by the parties themselves by process of collective bargaining and there should not be any third party's intervention in this matter. Mode and manner of deciding such a quantum should also be left to the parties themselves. HMS prefers that employers and employees should discuss this issue directly and it is for them to decide what factors should be taken into account in coming to a decision and in what manner.” It further states: “HMS wants to go on record of this Committee that there should be no formula for deciding bonus in excess of the minimum and the quantum should be discussed and decided by the employers and the workers in a given plant or the industry as the case may be.”

11.7 The AITUC does not agree with the suggestion that bonus above the minimum should be left to be resolved by collective bargaining between the parties concerned. In effect it would mean freezing of bonus at 8½ per cent where unions are weak and where they are strong it may, under the present industrial relations law, lead to litigation and thus bring back some formula decided by the Supreme Court. However, it states in its memorandum that many employers want section 34(3) to be deleted and points out that “actually this is a very salutary provision and has helped in solving many disputes. In any case, even if this provision were to be deleted, there cannot be any ban on the mutual settlement under any law. The inclusion of this clause is beneficial to both the parties and enables the employer to get the benefit of the income-tax rebate on bonus.”

#### Views of Employers' Organisations

11.8 On the other hand, the Employers' organisations are almost uniformly and equally strongly opposed to retention of section 34(3) as part of any future

legislative framework. The Council of Indian Employers in its memorandum has observed as follows: "Bonus Act is intended to minimise disputes over bonus by regulating the payment of bonus. It is well known that the Act has failed to reduce the number of bonus disputes and also that its failure is mainly attributable to the existence of section 34(3) in the Act which permits bonus being demanded and paid under a formula which is different from that provided in the Act. The Council submits that once a formula is settled and embodied in the Act, there should be no scope for any bargaining over bonus as is permissible at present under section 34(3). It is, therefore, strongly urged that section 34(3) should be deleted."

11.9 The Engineering Association of India in its memorandum states that since the Act lays down a scheme for the calculation and payment of bonus there should really be no alternative for collective bargaining. It also suggests that section 34(3) should be deleted. Similarly, the Indian Chamber of Commerce, Calcutta is strongly of the opinion that collective bargaining should have no place in regulating the Payment of bonus so long as the Bonus Law remains on the statute-book. To this end the law should be modified to remove all provisions permitting collective bargaining including the provisions of section 34(3).

11.10 The Southern India Millowners' Association in its memorandum states: "So far as the issue of bonus is concerned, we have lost faith in the collective bargaining as a means of reaching a fair settlement. Union rivalries dominate their approach to the issue. Competing claims without reference to realities is the order of the day. Prolonged strikes, stoppages, go-slow, threats of intimidation, violence have taken the place of collective bargaining. And in this background, we see no prospect of a fair deal under collective bargaining." The Association has suggested that section 34(3) of the Act should be abrogated. In its opinion section 34(3) which permits bonus in excess of the formula lends itself to serious abuses reducing the Act to a mockery. The fact that the employers are parties to such unwarranted deviations hardly recognises the fact that they themselves are seldom willing parties.

11.11 The Indian Banks Association is also of the view that section 34(3) of the Act has created more disputes than it has solved and has resulted in many banks having to pay a very much higher bonus than that payable under the Act, due to pressures exerted by unions. There should, therefore, be no provision in the Act for granting bonus outside the statutory formula, as otherwise the very object of the Act will be defeated. The Association, therefore, requests that the Committee may recommend the deletion of section 34(3) from the Payment of Bonus Act.

11.12 The Hindustan Steel Ltd., in its memorandum has stated that the Payment of Bonus Act should not provide scope for collective bargaining outside the framework of the Act. If such scope is allowed, the basic objective of having a statutory scheme would be defeated, besides providing scope for disputes which the Act is intended to obviate. It further points out that

all legislation is minimal, and there is nothing to prevent an employer either in agreement with the employees or otherwise from paying bonus to his employees over and above what is prescribed in the Payment of Bonus Act. Therefore, there is no need to have an enabling provision for collective bargaining over bonus in the Payment of Bonus Act itself.

11.13 The Indian Merchants' Chamber in its memorandum has observed that the Payment of Bonus Act and particularly section 34(3) which was intended to establish industrial peace by not excluding voluntary agreements between the employees and the employers to declare bonus on a formula other than that envisaged by the Act, contrary to expectations, turned out to be a standing invitation to labour to demand payment of bonus on the basis of a different formula. In effect it has given rise to a situation where different rates of bonus prevail in similar concerns as also the concerns located in the same area. Inevitably, because of the disparity in rates of payment of bonus paid in different establishments, there is growing industrial unrest. In the circumstances, it suggests that this provision should be deleted so that the formula envisaged under the Bonus Act would be applicable to all concerns and there would be no ground and scope for any dissatisfaction on this account amongst workers.

#### Views of the Committee

11.14 It will thus be seen that the trade union organisations and organisations of employers hold very strong and divergent views on the provisions of section 34(3). This has been about the most hotly contested provision of the Act before the Committee. The employers have attacked the provision as a contradiction of the basic terms of the statute and as the source of most of the disputes on bonus, inasmuch as the section provides that while the minimum bonus shall not be infringed under any alternative arrangement entered into between employees and employers no similar protection extends to the maximum bonus or to the scheme of bonus under the Act. The employers consider that the provision has been a means of coercion of employers by trade unions into signing settlements for payment of bonus beyond the scope of the Act. The provision has thus given a handle to the trade unions to demand bonus under a different formula and for bypassing the law. The employers are of the view that once a formula is settled and embodied in the law there should be no scope for any bargaining over bonus as is possible at present under section 34(3). Some employers have maintained that even in the absence of a provision like that in section 34(3) there would be nothing to preclude employees and employers from arriving at an agreement providing for the grant of bonus higher or on a different basis than under the Act. But, it is stated by employers generally, the existence of this provision acts as an open and positive invitation to labour to treat the benefit provided by law as a minimum and as a starting point for larger claims, and therefore, as an incitement to bonus disputes.

11.15 On the other hand, employees organisations and representatives are equally emphatic in their view that the present version of section 34(3) is very necessary and should be retained. They consider that rather than the section having been responsible for a large number of disputes the provision has been responsible for a large number of settlements and even bonus pacts for 2 or 3 years in advance. It would be too much to expect a single formula to be adequate for providing an answer to bonus under diverse conditions. Hence the enabling provision under section 34(3) is particularly suitable for such situations as might not be appropriate for being treated in terms of the provisions of the Act.

11.16 The likelihood that employees and employers could negotiate a bonus settlement outside the frame-work of the Bonus Act, whether there is a provision as in section 34(3) or not, has been interpreted by employers as evidence of its redundancy, on the one hand, and positive inducement to labour to sidetrack the law on the other. The same fact has been interpreted by employees as the explicit statement in the law of a right which is acknowledged to be clearly implicit, and which in the light especially of its use-to-date cannot, in their view, be taken away.

11.17 We are afraid of the differences of views voiced in the evidence received by the Committee are also reflected in the views of members on the question which have crystallised.

11.18 Sarvashri G. Ramanujam and Mahesh Desai are in favour of retention of section 34(3) of the Act as it is. They consider that it was to provide for the large and growing contingency of having to resolve the annual recurring disputes of bonus outside the strictly unworkable statutory provisions that the necessity of collective bargaining was envisaged and was incorporated in section 34(3) of the Act. There are diverse types of industries-labour-intensive and capital-intensive, those the products of which are subject to price control and others which enjoy freedom from similar controls, those where the monopoly influence is strong and others where competition rules, etc. It is not practicable for a single formula to provide the ideal solution in every case. In view of the consistent and unanimous stand of the trade union organisations on this issue, there could, in the view of the labour representatives, be no question of deleting the provisions of the Act in this regard, or of limiting their scope and operation. They consider that the deletion of section 34(3) will lead to a lot of malpractices and collusion between management and labour to arrive at a different or higher quantum of bonus than the law would then permit but under different names. They consider the retention of the provision necessary even if in the absence of it payment of a higher bonus were not to be illegal on the assumption that labour legislation provides in general for minimum benefits and higher benefits are not supposed to be precluded.

11.19 The Chairman and the other four members of the Committee are of the view that the increased bonus disputes have not been caused by any major inadequacies of the bonus formula as such and have been encouraged appreciably by the escape clause in section

34(3). This had led to pressure to pay even higher bonus than is payable under the Act and these pressures have worked to impair the framework of the Act. It is the fact of bonus being made a bargainable issue through section 34(3) in particular that has made bonus a perennial source of conflict. It is, therefore, necessary that all bonus payments should be regulated according to the formula of the Act, and to this end, section 34(3) should be deleted and any payment of bonus in addition to that provided under the Act should not be counted as expense for purposes of taxation. Also, Government should not entertain disputes for bonus in excess of what is payable under the Act.

11.20 Having decided upon a legislative framework, which has much to commend itself, the five members see no merit in recommending adoption of continuance of a specific provision, which the Bonus Commission did not recommend, to the effect that the framework prescribed in the Act may be diverged from. This acts as an open invitation or incitement to treat the various benefits under the Act, and not only the minimum bonus, as a starting point for wider demands. It is not collective bargaining as such to which they are opposed; it is the combination of collective bargaining and legislative prescription in the same field to which they take exception. Even if it were not practicable altogether to preclude a different determination of bonus than under the formula of the Act, there is no reason for going to the other extreme of undermining the scheme of the Act by a specific provision in favour of by-passing it. In fact, there is a case for some deterrents against departures being incorporated in the Act rather than inducements for departures. Hence the recommendation for deduction of bonus as expense in terms only of what is payable under the Act and not to entertain any disputes for bonus over and above what is payable under the Act.

11.21 The five members do see a good deal of merit in collective bargaining as a goal of policy and in development of trade union strength as a basis of effective collective bargaining. Pending such development and for some time, they consider that a legislative framework for the determination of bonus is desirable as an alternative to collective bargaining. They are of the view, however, that the acceptance of a legislative framework has implications, the most important of which is that the legislative framework which has been adopted should be observed in practice in the normal course.

11.22 There are two main arguments advanced by labour representatives and organisations for retaining a measure of flexibility in the framework of any bonus formula through a role for collective bargaining side by side with legislative prescription. One argument is in favour of a *different* formula for the determination of bonus than the formula incorporated in the statute on the score of (a) the diversity of conditions in industries with a possible bearing on the likely contribution of labour and capital to profits. This argument is supported by (b) the practice of industry-wise agreements or variations in the application of the formula in industries such as tea, coffee,

jute, textiles etc. where some deviations from the terms or rates of bonus yielded by the formula have been part of the practice of determination of bonus; banking also is an industry where the formula as such has not been rigidly adhered to and labour and management representatives—both enlightened—have agreed to diverge from strict application of the formula.

11.23 The five members consider, nevertheless, that application of the formula has by and large been adequate as providing for the differing capital/labour intensity of industries inasmuch as the formula provides for depreciation and a return on capital and reserves, both of which provisions are designed to allow for the diversity of conditions of industries. To the extent that deviations from the formula have been made in individual units or particular industries, these have not conformed to any clear rule or alternative formula or formulae; they have been largely *ad hoc* and have been intended chiefly to improve upon the benefits for employees as compared to the formula.

11.24 The five members consider that such improvement of benefits should be the occasion for adoption in the units or industries concerned of alternative bases specifically related to improvement at the same time of production/productivity. True, a direct reinforcement of this most important objective of improving production/productivity in the economy cannot be secured in the field of bonus on a universal basis in terms of a formula of general application throughout the economy. However, unit-wise and industry and region-wise arrangements for payment of bonus linked to production/productivity have been made. And the challenge of devising an alternative bonus arrangement linked to production/productivity should be accepted by labour and managements *where a higher bonus than what the formula indicates is to be paid*. There is considerable merit in strengthening the structure of bonus by incorporating, for example, conditions such as those relating to continuity and length of service, attendance etc., for reinforcing production/productivity in the enterprise as a basis of departure from the formula, especially where such departure has been made in the past. This, *viz.*, linkage of bonus to production/productivity which is feasible under section 32(vii) is a more satisfactory basis for departure from a formula the terms of which have been hammered out after such prolonged country-wide discussion than incorporating in the statute a provision that the formula for bonus may always be replaced by a different formula—when no such provision was recommended by the Bonus Commission which recommended the formula.

11.25 The second argument for flexibility in the application of the formula put forward by labour representatives is for continuing to view with favour, in

the arrangements of the formula, the grant of bonuses at rates higher than those prescribed in the Act. The five members find it especially and specifically difficult to endorse for retention in the new scheme of bonus this second order of flexibility, *viz.*, flexibility extending bonus *above the ceiling*. Section 34(3) as it is in effect says that there shall be, under the Act, a maximum and minimum, provided, however, that the minimum shall *not* be infringed but the maximum might very well be overlooked with impunity. The five members assume an increase in the maximum rate of bonus as recommended by a different majority of the Committee excluding two of themselves, but do not favour retaining a specific or explicit provision in the Act which favours departures from the maximum of the range for bonus laid down in the Act. They consider that increases in the maximum rate of bonus and in the minimum rate of bonus irrespective of the extent of profit or loss, greatly strengthen the case for investing the new maximum with the same measure of inviolability as is conferred under this subsection on minimum bonus, even though the existing maximum does not enjoy this protection in terms of the present statute. They invite attention to the strong case for continuing to incorporate a specific maximum in the legislation made out in Chapter X and suggest that in the interest of avoiding many bonus disputes with some of the more disruptive consequences the new maximum should be respected and should, therefore, be made definitive, so far as section 34(3) is concerned. They consider that the case for proposing an upward revision of the maximum is considerably weakened if the maximum were not, in any case, to be observed as a maximum.

11.26 The five members further consider that the provision under section 32(vii) for substituting the bonus formula by an agreement linking bonus to production or productivity offers the only good basis for departure from the scheme of the Act. Bonus higher than the maximum may be negotiated under productivity linked schemes in terms of this section. Such schemes are particularly suitable for being worked out in relation to individual units. And the problem of bonus higher than the maximum is peculiarly a problem for certain individual units.

11.27 Finally the five members consider that it is important that this element of earnings acquires a certain fixity of form rather than continue to retain an amorphous character and remain a source for sowing dissension and disputes over a larger area of the economy. It is essential for this purpose to limit the extent and range of any bargaining both by making any variation from the formula the exception and the application of the formula the rule and by confining bonus uniformly within the prescribed outer limits. Sarvashri G. Ramanujam and Mahesh Desai do not agree with the above views.

## CHAPTER XII

### ELIGIBILITY FOR BONUS

#### **Minimum number of days worked as condition of eligibility**

Prior to the appointment of the Bonus Commission in a number of concerns where there were agreements on bonus between the employer and the workmen there was generally a clause which stipulated a qualifying period of 30 days' work as the minimum attendance for the employee to be eligible for bonus. Some of the awards of Industrial Tribunals on bonus also specified this condition of eligibility for bonus. The Bonus Commission considered the matter and was of the view that there should be a minimum period of 30 days work in the year for qualifying for bonus. The Commission pointed out that in the profit-sharing systems in other industrialised countries there was usually a minimum qualifying period. Minimum qualification period was considered desirable on principle for the reason that it would avoid administrative difficulties caused to companies by having to keep records of attendance of casual and temporary workers who might have worked at any time for a very short period during the year and to verify that bonus payments were made to the right persons.

12.2 The Trade Union Federations are not in favour of retaining this qualifying period, while the employers want to retain the condition as it is. We have carefully considered the question and are of the view that the present condition of 30 days' working for eligibility to bonus may be retained.

#### **Dismissal as Disqualification for Bonus (Section 9)**

12.3 The Bonus Commission considered whether the dismissed employees should be made eligible for receiving bonus. The Commission observed : "There is nothing anomalous in combining bonus stoppage with dismissal—indeed it would be rational—because such cases warrant severity in order to act as a deterrent. After all bonus can only be shared by those workers who promote the stability and well being of the industry and not those who positively display disruptive tendencies. Bonus certainly carries with it the obligation of good behaviour which helps sustaining the industry. It is, however, necessary that the authorities administering it must not do so slightly. They should be doubly careful when they resort to this extreme course. The basic ingredients of misconduct are not in doubt; they are categorically defined in the Standing Orders which deal with various types of conduct for which dismissal is permissible and in the case of wrongful dismissal workmen are not

without a remedy. Why should, therefore, there be any exemption?"

12.4 The Commission however, confined the disqualification to the dismissal from service, for fraud, riotous or violent behaviour while on the premises of the establishment or theft, misappropriation or sabotage of any property of the establishment. These conditions for disqualification from bonus were incorporated in section 9 of the Payment of Bonus Act.

12.5 One view which has been advanced before the Committee is that an employee who has already been punished for his misconduct through dismissal should not be doubly penalised by depriving him of the payment of bonus, because the bonus that is paid under the Payment of Bonus Act is not a "good conduct bonus". On the other hand, the view of employer organisations is in favour of maintaining the present provision.

12.6 It may be useful to look into some of the penalties attached to similar types of misconduct in regard to other benefits for labour. As regards the payment of gratuity, there has been a practice also not to pay gratuity to an employee who was dismissed for misconduct. The Supreme Court in the case of Garment Cleaning Works *vs.* Its Workmen, 1961 I L.L.J. p. 513 observed as follows: "On principle, if gratuity is earned by an employee for long and meritorious service, it is difficult to understand why the benefit thus earned by long and meritorious service should not be available to the employee even though at the end of such service he may have been found guilty of misconduct which entails his dismissal. Gratuity is not paid to the employee gratuitously or merely as a matter of loan. It is paid to him for the service rendered by him to the employer, and when it is once earned, it is difficult to understand why it should necessarily be denied to him whatever may be the nature of misconduct for this dismissal." Also, in the case of the Calcutta Insurance Co. Ltd. *vs.* Their Workmen, 1967 II L.L.J. p. 1, the Supreme Court observed: "If a workman commits such misconduct as causes financial loss to his employer, the employer would, under the general law, have a right of action against the employee for the loss caused, and making a provision for withholding payment of gratuity where such loss was caused to the employer does not seem to aid to the harmonious employment of labourers or workmen. Further, the misconduct may

be such as to undermine the discipline in the workers—case in which it would be extremely difficult to assess the financial loss to the employer."

12.7 Notwithstanding these observations, there is a provision in the Payment of Gratuity Act, 1972 for depriving a workmen of the payment of gratuity on account of dismissal for certain types of misconduct. The relevant provision in sub-section (6) of Section 4 is in the following words.

"Notwithstanding anything contained in sub-section(1),

- (a) the gratuity of an employee, whose services have been terminated for any act, willful omission or negligence causing any damage or loss to, or destruction of, property belonging to the employer, shall be forfeited to the extent of the damage or loss so caused;
- (b) the gratuity payable to an employee shall be wholly forfeited—(i) if the services of such employee have been terminated for his riotous or disorderly conduct or any other act of violence on his part, or (ii) if the services of such employee have been terminated for any act which constitutes an offence involving moral turpitude, provided that such offence is committed by him in the course of his employment."

It follows that gratuity also is not payable to an employee if he is dismissed for specified counts of misconduct.

12.8 The majority of the Committee considers, however, that the provision in Section 9 goes too far in penalising the employee inasmuch as the disqualification for receiving bonus applies to any and all bonus which might otherwise be payable but has not been paid, including arrears of bonus on account of an earlier year. The majority considers that ineligibility to receive bonus should be limited to bonus for the single year during which the offence which leads to the dismissal occurs and should not apply to any bonus for earlier years which might be due but might not have been paid. The majority recommends that the Act should be amended to limit the scope of this provision accordingly. Sarvashri Ramanujam and Mahesh Desai dissent from this recommendation as they consider that the employee should not be subjected to double punishment—once by losing the job and again by losing bonus as well.

#### **Bonus Holiday (Section 16)**

12.9 In respect of new concerns the Bonus Commission did not recommend the application of its general bonus formula straightforwardly. On the other hand, the Commission recommended that its formula should not apply to new concerns until they had recouped all early losses including all arrears of normal depreciation admissible under the Income-tax Act subject to a time limit of six years. In other words, the Commission recommended that the liability to pay bonus (including minimum bonus) in accordance with the formula should commence only :

- (a) from the year in which there was for the first time an over-all net profit after providing for that year's normal depreciation, to wipe off all accumulations of previous losses and arrears of depreciation; or
- (b) from the sixth year following the year in which the undertaking began to sell its products and/or services; whichever might be earlier.

This recommendation applied also to existing concerns in respect of new industrial units or undertakings established by them whether in the same industry (e.g., a new cement factory established by an existing cement manufacturing concern), or in a different industry (e.g., a new cement factory established by a jute manufacturing concern). The Commission, however, recommended that where there was the practice of such concerns to pay bonus to their workmen at a uniform rate on the basis of the consolidated profit computation in respect of all units (whether limited to the consolidation of all units engaged in the same industry, or extending also to the consolidation of all units regardless of the industry to which they belonged) that practice should continue in respect of the new units started by that concern; and that this recommendation should also apply to new concerns and new units of existing concerns in the public sector. The recommendation was given effect to and incorporated in Section 16 of the Payment of Bonus Act.

12.10 The labour organisations are not satisfied with the wording of this Section in the Act. The INTUC and HMS are of the view that 'bonus holiday' should go and employees should be eligible for bonus from the commencement of production in the unit. In the view of the Textile Labour Association and the Karnatak branch of INTUC, clause(b) of explanation II which requires setting off fully of the arrears of depreciation and losses incurred by the employer in respect of the establishment for the previous accounting years before an employer could be deemed to have derived profit in any accounting year, is a harsh condition from labour's point of view and should be deleted from the Section. On the other hand, the employers' organisations are in favour of retaining the existing provisions of the law relating to new establishments.

12.11 The majority of the Committee has carefully considered the provisions of the Section. Although some trading and commercial concerns may make profit from the very first accounting year, it is not likely that the industrial concerns which have to begin production after installing costly plant will make profit from the first year. A certain initial period is necessary for a new concern to establish its foothold in the production and marketing of goods and services. On the whole, the majority of the Committee feels that the stipulation of a short initial period free from bonus liability is a salutary provision inasmuch as it provided for postponement of the beginning of bonus liability during the gestation period of a new enterprise or establishment, before it has started earning profits. Since the freedom from bonus liability is limited to the initial period before commencement of profit there is no possibility of abuse of the provision in order to postpone inordinately the time when the bonus obligation

arises. Once profits are made in any year, the provision ceases to operate and (minimum) bonus will be payable even when no profit is made by a concern in any subsequent year.

12.12 At the same time, the Chairman and Sarvashri Punekar and Ramanujam consider that the period of six years prescribed in the Act is too long for the employees of new establishments to wait before they might expect a bonus including minimum bonus. They, therefore, recommend that a new establishment should pay bonus.

- (a) from the accounting year in which the employer derives profit from such establishment; or
- (b) from the fourth accounting year following the accounting year in which the employer sells the goods produced or manufactured by him or renders service whichever is earlier. For this purpose the sale of goods produced or manufactured during the course of a trial run of any factory or at the prospecting stage of a mine or oil should not be deemed to be sale of goods.

12.13 The definition of profit should remain the same in terms of Explanation II to Section 16. They consider that a definitive reduction of the period after which the bonus liability is placed on the employer is a better method of showing some accommodation to the demand of labour for limiting the duration of the bonus holiday than a revision of the definition of profit so as to exclude having to provide for arrears of depreciation before profit is deemed to arise. The change proposed by the three members will clearly advance the time when minimum bonus becomes payable in a new establishment. It will also avoid the uncertainty attached to the outcome of a change in the definition of profit which might, on the one hand, continue to deprive labour even of a minimum bonus for as long as five years as at present, or on the other hand, impose the liability of a bonus higher than the minimum on an employer before he has really got out of the red. The three members wish to make it clear that their proposal assumes deduction of arrears of depreciation only and not of development rebate which, they consider, should be left out of account the purpose of determining the emergence of profit and the timing of termination of the 'bonus holiday'.

12.14 Shri Mahesh Desai is in favour of abolition of the 'bonus holiday' and for grant of bonus to employees from the commencement of production. Sarvashri Bhat, Billimoria and Harish Mahindra are against any abridgement of the duration or terms of the 'bonus holiday' as at present.

#### **Seasonal Industries**

12.15 A demand has been made on behalf of labour organisations in regard to grant of bonus in seasonal industries that the season itself should be deemed to be the year, and that a full year's bonus should be given to the seasonal workers in the industry as if the worker has worked throughout the year and proportionately less for less than a season's work.

12.16 The seasonal industries are many and varied in character. Some of them are large-scale industries like the sugar industry. On the other hand, the seasonal industries to which the Minimum wages Act applies, e.g., ginning and pressing factories, brick & tile factories, salt pans, rice and dal mills, oil mills etc., are small industries. Seasonal factory has been defined in the Employees' State Insurance Act, 1948 as follows.

" 'Seasonal factory' means a factory which is exclusively engaged in one or more of the following manufacturing processes, namely, cotton ginning, cotton or jute pressing, decortication of groundnuts, the manufacture of coffee, indigo, lac, rubber, sugar (including gur) or tea or any manufacturing process which is incidental to or connected with any of the aforesaid processes; (and includes a factory which is engaged for a period not exceeding seven months in a year—

- (a) in any process of blending, packing or repacking of tea or coffee; or
- (b) in such other manufacturing process as the Central Government may, by notification in the official Gazette, specify;"

According to this definition only certain seasonal industries are covered and many small scale seasonal factories, such as rice and dal mills, salt pans etc. are not covered by the Employees' State Insurance Act.

12.17 The season of the seasonal industries varies from one industry to another, from one region to another within the same industry and from one unit to another within the same region and industry. The season in salt pan industry, in ginning and pressing and brick & Tile industry runs to 8 months, while for rice and dal mills, it lasts for barely 4 months; sometimes owing to failure of rains and discontinuity in agricultural supplies, the season is both extremely short, possibly less than a month, e.g., for oil milling, and intermittent—for a few days in a month—as agricultural supplies are available.

12.18 In the face of the extreme heterogeneity of conditions in seasonal industries, the demand for a full year's bonus for work for a season (which is of a highly variable duration) raises several issues. It is useful to try to appreciate these in some detail. (a) A full year's bonus is not paid even in a perennial or year-round industry. The bonus paid is a proportion of the annual wage/salary which varies with the actual attendance of the worker. If a non-seasonal worker at present receives bonus for less than a full year, depending upon his actual attendance, how could the seasonal worker be assumed to have been putting in 100 per cent attendance if he were a year-round worker? If not, what attendance on the hypothesis of the seasonal industry being treated as a perennial industry, should be assumed for a seasonal worker? (b) Would it be equitable to pay a worker who works for the full season in a seasonal industry, where the season is of 4 months' duration, one month's wage as bonus, when in a non-seasonal industry a worker who happened to put in 4 months' work is paid only 10

days' wages (which would be his entitlement as bonus)? (c) What are the seasonal industries and can a full list of these on a country-wide basis be compiled? (d) What is the length of season for the various seasonal industries? Can it be fixed on an industry-wise basis or would it vary also on a region-wise basis and therefore for units located in different parts of the country in the same industry? Or even from unit to unit in the same region? (e) Would the length of season be the same always or would it vary from year to year depending on the availability of raw material supplies, weather conditions etc.? (f) Would norms of attendance in relation to the query in (a) above for (i) industries (ii) regions (iii) units be developed, in order to determine the full season to consider compliance with the conditions of eligibility for full bonus? (g) Should a worker earn a full year's, being a full season's bonus, in more than one industry? Or earn a full year's—or season's bonus in one industry *and* earn bonus also in another industry where the works outside the season of the seasonal industry?

12.19 On a full consideration of the complexities of issues thrown up by any effort to reward seasonal worker with a higher bonus—for commensurate work than non-seasonal workers as well as the equity of

treatment of workers in seasonal and non-seasonal industries (which would have to be defined), it is clear to the majority of the Committee that the present basis of proportion of annual wages based on attendance is both the simplest and the most equitable arrangement for award of bonus in seasonal as well as non-seasonal industries. It is possible that before the present legislation came there might have been higher bonus in some seasonal industries which is not covered by the scope of the present legislation but it is not always practicable or equitable to prescribe a legislative basis for a wide diversity of conditions.

12.20 Sarvashri G. Ramanujam and Mahesh Desai consider that in the case of 'seasonal factories' the season should be deemed to be the year in respect of employees employed for the season; for instance, where the seasonal workers are entitled to only the minimum bonus, they shall be paid a minimum of one month bonus for full attendance in the season, and proportionately for lesser attendance, subject to a minimum of Rs. 200 for the season. In the case of employees working round the year in seasonal industries, they will be treated as workers in other perennial factories. The favourable treatment to the seasonal workers is intended to help them for the loss in earnings for the period of their non-employment.



## CHAPTER XIII

### MISCELLANEOUS MATTERS

#### **Special Machinery for Disposal of Bonus Disputes**

One of the important measures of reform of the system for resolution of bonus disputes concerns the machinery for disposal of such disputes. Having regard to the frequency and duration of bonus disputes and the resultant loss in production to the economy, we consider it important that a special agency or machinery be set up to resolve bonus disputes promptly, fairly and finally. It is agreed on all hands that the best means of settlement of industrial disputes including bonus disputes is collective bargaining or direct negotiations. However, it is desirable against the contingency of failure of direct negotiations, to incorporate built-in provisions in the collective bargaining scheme itself to refer the disputes automatically to arbitration/adjudication. At present where collective bargaining fails and there is no agreement on referring the dispute for arbitration, after months of delay at the conciliation stage the dispute is often referred to adjudication, which itself is a tortuous process not only entailing further delay in securing award of the Tribunal but compounded by successive doses of delay arising out of writs and appeals to higher courts, including the Supreme Court.

13.2 We are, therefore, of the view that the present system of resolving bonus disputes otherwise than by collective bargaining requires a drastic overhaul. It is in the interests of all the parties that a recurring annual dispute as bonus is settled expeditiously as well as justly. This objective cannot be achieved if these disputes are referred for adjudication by the existing Tribunals. Indeed even the existing adjudication machinery in general is found to have outlived its utility, and there is an all-round appreciation of the need for substituting the institution of Tribunals by something more effective and the proposed comprehensive Industrial Relations law is expected to take care of this aspect of the problem. But we are not concerned here with all kinds of industrial disputes.

13.3 We are concerned in particular with the treatment of bonus disputes. We do feel that in view of their nature and frequency of occurrence as well as the need for prompt decision in the matter a special machinery exclusively charged with the function of settling bonus disputes will be desirable. The majority of the Committee considers that the proposed Industrial Relations Commissions at the Centre and in the States reinforced by the establishment of special wings with the addition of members having special competence for dealing with bonus matters e.g. in accounts, economics or labour affairs, should provide in due course an adequate answer to the problem of setting up special machinery for the purpose. However, pending the institution of such Commissions, the majority recommends the setting up of 'Bonus

Boards' both at the national and at the State levels. These Boards should consist of one representative of the employing interests, who would be well-versed in the economics of industries, and one representative of labour interests, who may have thorough familiarity with labour matters, the third member who will be an independent person should preferably be a sitting judge of the High Court or Supreme Court and selected as such by the concerned Chief Justice.

13.4 The independent member *viz.*, the High Court judge will select members of Bonus Board/Boards representing the employer and employee interests for different industries, out of panels of names of labour experts and management experts as furnished by the respective interests, to be prepared and maintained by the High Court for State-level boards and by the Supreme Court for national Boards.

13.5 The parties to bonus disputes must have the right of direct access to this Bonus Board. While this right when given to employers will present no problem, wherever multiple unions function the question will arise as to which union among them should be given the right of such direct access. There are already State laws in some States providing for statutory recognition of representative unions. Such recognised unions can be given the right in those areas and industries. Besides, we understand the Government of India is considering legislation for statutory recognition of trade unions. The problem of recognised unions may, therefore, be expected to be resolved in terms of this legislation when passed. For the present, unions recognised under the Code of Discipline or under any statutes, may be given the right of direct access to the Bonus Boards. Where, however, there is no recognised union, any union/unions claiming to represent a majority of workmen and desiring a direct access to the Bonus Board, should be entitled to have it, provided where such union's/Unions' claim to represent the majority of workmen is disputed, the matter shall be decided by the Bonus Board and its decision shall be final. In addition to the right of direct access for the parties, it should be open to the appropriate Government also to refer any bonus dispute to the Bonus Boards on its own initiative.

13.6 Any decision of the Bonus Board whether majority or unanimous, shall be binding on all the workmen employed in the establishment and the management. There shall be no right of appeal against the decision of Bonus Board except on the ground that the Board has acted perversely or with impropriety or in excess of jurisdiction.

13.7 The Bonus Board shall be required to give its decision within three months of the date on which a reference is made to it. The Bonus Board shall have powers of enforcement of its own awards. The members of the bonus Boards may be appointed as full-time members of the Boards for a specific reasonable period, so that they may not have to depend on the patronage of the appropriate Government for extension of their appointment. Boards shall have all the powers for compelling production of all such documents, including books of accounts, vouchers, receipts and other necessary or relevant documents and for making them available for inspection by labour representatives.

13.8 Shri Mahesh Desai does not agree to the proposal for creation of separate Bonus Boards. In case bonus disputes cannot be resolved by the parties themselves through collective bargaining and have to be referred to a third party, he wants that the machinery under law and practice as it is today should continue to settle bonus disputes.

#### Access to Accounts & Audit of Accounts

13.9 Sections 23, 24 and 25 provide for the presumption about accuracy of balance-sheet and profit and loss account of corporations and non-banking companies and the audited accounts of banking companies as well as the requirement for audit of accounts of other employers. Exception has been taken to these provisions of the Act on behalf of labour organisations on the ground that the profits shown in the P & L Account even after audit by the auditors often do not reflect the correct profits for bonus purposes. It is, therefore, claimed that employees should have the right to scrutinise the accounts by appointing an auditor of their own choice or union representatives for the purpose and at any rate to have access to the accounts and to challenge the accounts.

13.10 A revision of the procedure incorporated in sections 23, 24 and 25 should be based on a review of their working in practice against the background of the relevant statutory provisions in the Company Law as well as the rationale of the provisions as given by the Bonus Commission. The Bonus Commission after careful consideration recommended as follows.

(i) If a *prima facie* case is made out showing that the balance sheet or profit and loss account is incorrect the Tribunal or other authority may go into the question of the correctness or incorrectness of the items. The Tribunal deciding a bonus dispute may, in its discretion, permit unions to obtain clarification of items in the balance sheet or profit and loss account or major break-up figures of large item. But the Tribunals and Arbitrators should not embark on investigations into questions such as whether stocks have been correctly valued, whether a portion of the revenue expenditure which has been passed by the Auditors as revenue expenditure should be considered as capital expenditure, the adequacy of remuneration to Directors and Managing Directors and Managing Agents of companies and whether expenditure on travelling allowances is

excessive, etc. The Companies Act and other Acts provide ample safeguards against mal-practices. There are also provisions under the Companies Act for directing investigations into the affairs of companies in certain circumstances.

(ii) As regards the banks, in a bonus proceeding audited accounts of banks should not be permitted to be challenged or gone behind. Unions may, however, be permitted to obtain from the banks such information as is necessary for working out calculations according to the bonus formula, e.g., figures of basic wages and dearness allowance, bonus for previous years and provision for bonus included in expenditure for the current year, etc.

(iii) As regards the accounts of partnership and proprietary concerns in a bonus dispute the Tribunal may, if it thinks it necessary, require the accounts in such cases to be audited and when they are audited and certified to be correct the same principle should apply as the case of audited accounts of companies.

It is in terms of the above recommendations of the Bonus Commission that Sections 23, 24 and 25 were incorporated into the Bonus Act.

13.11 The present position before the tribunals appears to be that many items continue to be challenged. Different calculations of the prior charges and the available surplus are made respectively by the trade unions and employers, and the tribunals take evidence as to whether and why challenged items may be permitted or not. The tribunals thereafter make their own calculations. If the matter goes to High Court or the Supreme Court the challenged items are again discussed and argued by respective counsel.

13.12 In the Metal Box case (1969 I LLJ p. 785) the Supreme Court has observed that the starting point of the computation of gross profits under the Bonus Act is the net profit shown by the employer in his accounts and it is not to be expected that the Industrial Tribunals would verify the accounts from which the net profit is worked out nor is it intended that they should determine the net profit for themselves, in a case where the net profit is based on audited accounts. The purpose of the presumption of accuracy of audited accounts is to enable the gross profits computation to be worked out taking the audited net profits as the starting point. In the view of the Supreme Court, tribunals dealing with labour disputes would not be effective bodies for the purpose of making detailed and elaborate enquiries into the accounts themselves and such enquiries would lead to prolonged and bitter controversies and it is presumably to avoid such an outcome that the Bonus Act has provided for the presumption of accuracy in favour of audited accounts.

13.13 On the whole it would appear to the majority of the Committee that the present provisions in the Act in sections 23, 24 and 25 of the Payment of Bonus Act have not operated in a way generally detrimental to the interests of labour. The workmen or

the representatives of trade unions have been asking for break-up of various figures in the balance sheet and profit and loss account before the tribunals and the tribunals have granted such requests unless that would lead to roving enquiry with a view to getting at irrelevant or unimportant particulars. Sarvashri G. Ramanujam and Mahesh Desai dissent from the views expressed here and have elaborated their point of view separately.

13.14 The majority of the Committee consisting of five members has some suggestions to make, as in the following paragraphs, for an improved access to the accounts, where necessary, to the representatives of labour within the broad framework of sections 23, 24 and 25 of the Payment of Bonus Act. They have reviewed the working of Sections 23, 24 and 25 and observe as follows.

13.15 These members consider it as common ground that for any version of the formula for bonus the starting point is the gross profits of the relevant accounting year. Under the present law, gross profits are arrived at by taking the net profits from the audited profit and loss account and applying to them the add-backs and deductions as in the relevant schedules to the Act, both for banking and non-banking companies. The present law gives labour the right to ask for details or break-up figures when the matter goes upto a tribunal but not the right to challenge the accounts. If the tribunal adjudicating a bonus dispute is satisfied that the accounts do not accurately reflect the profits it can take such steps as it deems necessary for securing its satisfaction as to the correctness of the profits.

13.16 However, the five members consider that adjudication should not be envisaged as the normal means of resolving industrial disputes or inculcating labour's confidence in the accuracy of accounts and correctness of computation of gross profits for the purpose of bonus. The issue of labour's claim with regard to access to accounts arises from the right of labour to be satisfied about the basis of computation of bonus in particular, and the need for devising adequate arrangements in this respect as a means of minimising bonus disputes. It appears to the five members that the present procedure which hinges on a tribunal's right to be satisfied about the accuracy of accounts, gives room for some improvement with a view to gaining labour's full confidence about the arrangements.

13.17 In theory and on the plane of broad principle labour's right to participate in the management of industry has been acknowledged. This should include the right on the part of labour to a sharing of at least the information which is necessary to safeguard labour's essential interests.

13.18 There are two ways of satisfying labour about the accuracy of the figures shown in the P & L Account and balance sheet. One way is for labour to appoint its own auditor in addition to the auditor appointed by the share holders of the company. In terms of this alternative the Company Law would have

to be amended to provide for the representative/recognised union of a company to be represented at the annual general meeting of the company and to arrange to nominate an additional auditor at that time. However, assuming that the appointment of two auditors were thus made legally permissible, occasions would arise when the two auditors would differ on admissibility of an item or items in the profit and loss account and the balance sheet. Any disputed points could only be resolved by referring them to a third auditor as arbitrator or industrial tribunal/Bonus Board as may be agreed. Taking everything into account the majority of the Committee does not recommend this alternative.

13.19 The other alternative is for the office-bearers of the representative/recognised union, when the law providing for compulsory recognition of unions has been passed and unions have been recognised in terms of it, or where there are already unions, recognised under State statutes, to be granted access to the accounts specifically for satisfying themselves that the bonus has been correctly computed. Till the changes visualised here regarding recognition of unions have been made, the *status quo* would continue. In terms of this alternative access to the accounts may be granted to the trade union representatives if they desire to verify specific elements of the bonus computation. To provide for possible implementation of this alternative, provision may be made in the law for the representative/recognised trade union to nominate an accountant—not necessarily a chartered accountant—as an assessor to look into the calculations and verify the correctness jointly with the assessor nominated by the company, who would ordinarily be the auditor. If there is still a difference of views, and the trade union, not having been satisfied, wishes it to be treated as a bonus dispute the matter may be referred to the special Bonus Board to which reference has been made elsewhere, rather than an Industrial Tribunal as the Board would become the relevant authority under Sections 23, 24 and 25 of the Payment of Bonus Act.

13.20 Sarvashri G. Ramanujam and Mahesh Desai do not agree with the above views as they insist on labour being satisfied as to the accuracy, propriety, legitimacy and fairness of the accounts themselves.

#### Mode of Recovery of Bonus (Section 21)

13.21 For the recovery of bonus which is due, but which has not been paid by the employer, two ways are open to the employees. (i) if the wages of an employee are Rs. 400 or less, he can make an application to the Authority under the Payment of Wages Act, 1936, or (ii) If the wages are above Rs. 400 he can make an application to the Labour Court under Section 33(c)(2) of the Industrial Disputes Act. The Authority under the Payment of Wages Act or the Labour Court under the Industrial Disputes Act, as the case may be, either makes an order directing the employer to make the payment of bonus due to the employee or dismisses the application if the claim for bonus is not justified. Thereafter, in Bombay, the

Authority as per the Payment of Wages (Bombay Amendment) Act, 1954 recovers the amount of bonus directed to be paid, as an arrear of land revenue by sending a certificate to the Collector for recovering the amount due from the employer. The position in other States might be somewhat different.

13.22 Similarly, so far as the procedure in Bombay goes, when the bonus claim is granted by the Labour Court under Section 33(c)(2) of the Industrial Disputes Act, the Labour Court forwards the order to the Deputy Commissioner of Labour with a direction to recover the amount due as an arrear of land revenue. The latter forwards the direction to the Collector. The Collector thereupon in either case proceeds to recover the amount from the employer and after the recovery is made, the amount is deposited either in the Court of Authority or in the Labour Court as the case may be.

13.23 Section 21 of the Payment of Bonus Act similarly provides that when any money is due to an employee by way of bonus from its employer under settlement or an award or agreement, the employee or in the case of his death, his assignee or heirs may make an application to the appropriate Government for the recovery of the money due to him, and if the Government is satisfied that any money is so due, it shall issue a certificate for that amount to the Collector who shall proceed to recover the same as an arrear of land revenue; provided that every such application shall be made within one year from the date on which the money became due to the employee from the employer. The Government can admit the application after the expiry of one year if it is satisfied that the applicant has sufficient cause for not making the application within the specified period.

13.24 The Maharashtra Branch of the INTUC in its memorandum has pointed out that there is no implementation machinery which can safeguard the right of the workers for speedy recovery of bonus. Under Section 21 of the Act, the power is given to the Collector for recovering the amount as an arrear of land revenue. Similar is the position in regard to Section 33(c)(2) of the Industrial Disputes Act, 1947. The experience is that the procedure in terms of it is so clumsy that it requires a number of years to recover the amount. The Maharashtra INTUC has suggested that the present legislation is haphazard and the remedy provided is ineffective; and that implementation of the legislation is as important as the creation of a right; the Labour Court or the Industrial Tribunal which will decide the claim should also be given the power of recovery.

13.25 The Government of Punjab in its memorandum has appointed out that Section 21 of the Payment of Bonus Act provides for remedy of the recovery of bonus payable to workmen under settlement or award or agreement but there is no provision for similar procedure in case the bonus has been declared without any agreement and employer has failed to pay even the minimum. An amendment in the Act to cover such cases or where minimum is payable needs to be made.

13.26 We are informed that the cases of delay in the payment of bonus are relatively few. Even so, we consider it necessary to provide some machinery for effecting speedy recovery of bonus when it is due and has not been paid by the employer. Elsewhere we have recommended setting up of tripartite Bonus Boards for deciding bonus disputes. The majority of the Committee excluding Shri Mahesh Desai is of the view that the same machinery may be utilised for enforcing recovery of bonus. The Act may provide for application being made to the Bonus Board if there is delay in the payment of bonus. The Board may hear such application after giving an opportunity to the employer concerned to have his say and may make an order directing the employer to deposit the amount of bonus due in the office of the Bonus Board and the Board shall arrange to make payment of bonus due to the employees. In the event the employer does not deposit the amount the Board may issue a certificate to the Collector for recovery of the bonus amount as arrear of land revenue; the collector as the executing authority would act on the certificate being furnished. Consequently, amendment will have to be made to the Payment of Wages Act and Section 33(c) of the Industrial Disputes Act depriving the authorities at present charged with responsibility under these Acts of the jurisdiction of deciding bonus claims and enforcing recovery thereof.

#### Exemption from Payment of Bonus (Section 36)

13.27 The Committee's attention has been drawn by some witnesses and in particular by the Consultative Committee on Plantation Associations, Calcutta to the provisions of Section 36 of the Payment of Bonus Act which empowers the appropriate Government to exempt a company having regard to its financial position and other relevant circumstances from the operation of all or any provisions of the Act. The Consultative Committee has pointed out that in the absence of any guidelines being provided either in the Act or the rules the State Governments decide the case for exemption entirely at their own discretion. The Committee has further stated that although several tea companies made applications under Section 36 for exemption from the obligation to pay the minimum bonus to the Government of Assam and West Bengal, in all the cases the applications were rejected without any reasons being given. The Committee has further submitted that in view of the fact that the rate of minimum bonus has now been raised from 4 per cent, to 8½ per cent, it is considered that the State Governments should give more detailed and careful consideration to applications for exemption which may be received by them.

13.28 Suggestions have been made by various employer representatives, now that the minimum bonus has been increased to 8½ per cent and there is the likelihood of repeated losses year after year for some units, that Government may constitute appropriate machinery for granting exemptions under Section 36 of the Payment of Bonus Act instead of allowing such units to become 'sick' and thereafter to be taken over by Government. In other words, the suggestion is that Section 36 should be activated and

not remain the dead letter that it had been while the minimum bonus was 4 per cent. In this chapter we have recommended constitution of Tripartite Bonus Boards for dealing with the bonus disputes. Such Boards may also be the "appropriate authority" to consider applications for exemptions from payment of bonus in genuine hard cases. The majority of the Committee, therefore, recommends that Section 36

may be suitably amended to incorporate specific reference to possible relaxation of the minimum bonus obligation in the event of continued losses, and enforced accordingly for the purpose of granting exemption. When the Industrial Relations Commissions are set up, this function should be taken over from the Bonus Boards by them. Sarvashri G. Ramanujam and Mahesh Desai dissent from this recommendation.



## CHAPTER XIV

### SMALL ESTABLISHMENTS

The first term of reference of the Committee is as follows: "Whether establishments (other than factories) employing less than 20 workers may be covered by the Act and if so upto what limit of employment? Should there be a separate formula for payment of bonus in these small establishments?".

14.2 The question of the size of establishment to be covered by bonus was considered by the Bonus Commission. A number of Associations urged before the Bonus Commission that small shops and trading establishments employing less than 20 persons should not be brought within the scope of the bonus formula for the reason that such establishments were not covered by the Labour Acts like the Employees' Provident Fund Act and the provisions of the Industrial Disputes Act pertaining to lay off and retrenchment compensation were also not applicable to such establishments. It was also urged before the Commission that the application of the bonus formula with the concomitant challenging of accounts etc. would disturb the harmony in relations between the employers and the employees in such cases. The Bonus Commission accordingly recommended that the general bonus formula proposed by it should not apply to small units employing less than 20 persons except those which were factories as defined in the Factories Act. Consequently, Section 1(3) of the Payment of Bonus Act provides that in addition to every factory, the Act shall apply to "every other establishment in which twenty or more persons are employed on any day during the accounting year".

14.3 Prior to the enactment of the Payment of Bonus Act, 1965, many establishments employing less than 20 persons were paying bonus or some equivalent of it by way of custom and usage to their employees at the time of annual festivals like Diwali, Puja holidays etc., though this practice was more prevalent in organised trading centres and cities. However, in the case of Sanghvi Jivraj Ghewarchand and others *Vs.* Madras Chillies, Grains and Kirana Merchants' Workers Union and others (1969 1 LLJ p. 719) the Supreme Court observed that until the enactment of the Payment of Bonus Act there was no statute in terms of which payment of bonus was a statutory obligation on the part of the employer or a statutory right of an employee. Under the Industrial Disputes Act and other corresponding Acts workmen of industrial establishments as defined therein could raise an industrial dispute and demand by way of bonus a share in profits and industrial tribunals could under those Acts adjudicate such disputes and oblige the employers to pay bonus on the principle that both capital and labour had contributed to the making of

profits and therefore both were entitled to a share therein. The question that arose was whether the small establishments employing less than 20 persons which were excluded from the provisions of the Payment of Bonus Act could claim bonus *de hors* the Act. On this aspect the Court observed : "Considering the history of the legislation, the background and the circumstances in which the Act was enacted, the object of the Act and the scheme, it was not possible to accept the construction suggested on behalf of the respondents that the Act is not an exhaustive Act dealing comprehensively with the subject matter of bonus in all its aspects or that Parliament still left it open to those to whom the Act does not apply by reason of its provision either as to exclusion or exception to raise a dispute with regard to bonus through industrial adjudication under the Industrial Disputes Act, or other corresponding law". It was held that since the Act excluded non-factory establishments employing less than 20 persons, the employees as such had no right to claim bonus under the law. Consequent upon this judgement some of the small establishments are reported to have stopped payment of bonus to the employees.

#### Views of Employees' Organisations

14.4 The Indian National Trade Union Congress (INTUC) in its memorandum to the Committee has pointed out as follows in reply to question No. 4 of the Committee's questionnaire which sought to ascertain the actual position regarding payment of bonus in small establishments : "The present position in non-factory establishments employing less than 20 workers is that the employers do pay bonus based on either a unilateral announcement or on collective bargaining wherever the union is strong. Although the Act specifically excludes them in practice these employers have been paying bonus largely guided by the provisions of the Act. This phenomenon is general throughout the country". The INTUC has therefore suggested that all non-factory establishments regardless of the number of persons employed by them should be brought within the scope of the Act. It is not in favour of prescribing any lower limit in terms of the number of employees employed as that would encourage malpractices in order to escape liability under the Act. On the question of the formula to be made applicable to small establishments the INTUC has suggested that the present formula of prior charges under the Payment of Bonus Act should be simplified for all cases and the simplified formula could be applied to all establishments including the small establishments.

14.5 The All India Trade Union Congress (AITUC) in its memorandum has pointed out that there is no reason why the exclusion from the purview of the Act of shops and establishments employing less than 20 persons should continue. With changes in technology many concerns which use huge capital outlay and have a high rate of profitability may employ a small number of workers. Even otherwise it is the contention of AITUC that all such workers should be treated regarding bonus on par with those in other establishments and the mere accident of their being in smaller concerns should not be made a reason to deny them a right accorded to others doing the same work possibly at higher wages. The AITUC has suggested that the bonus should be extended to all wage/salary earners in all areas of employment irrespective of who the employer is, the nature of the employees' job and size or any other feature of the concern where they work. In other words, all wage and salary earners should be entitled to bonus.

14.6 The Hind Mazdoor Sabha (HMS) in its memorandum has submitted that in small establishments bonus was mostly being paid by custom and usage. It did not vary from year to year and it was usually paid irrespective of profits. For example, in commodity markets in Bombay city small establishments used to pay bonus at the time of Diwali and the quantum was uniform from year to year. But after the Act was passed in many markets such bonus was denied to the workers particularly after the decision cited above was given by the Supreme Court. The HMS is in favour of extension of bonus to small establishments irrespective of size or number of employees and without any limit in terms of the number of employees.

14.7 The United Trade Union Congress (UTUC) in its memorandum has pointed out that in actual practice it is found that the concerns which are not factories or which employ less than 20 persons are paying bonus either under the old L.A.T. formula or under the new formula or on some other basis. In the state of West Bengal, printing presses, hosiery factories and many other small concerns though not covered under the Payment of Bonus Act regularly pay bonus to their employees at the time of Puja as a customary bonus and the quantum of bonus in most of the cases is above the minimum provided in the Payment of Bonus Act. The UTUC has also suggested that establishments employing less than 20 workers should be covered by the Act and there should be no limit of employment nor any necessity for a separate formula. In other words, only the units where the persons are self-employed and none is a wage earner may be exempted.

14.8 The Bharatiya Mazdoor Sangh (BMS) also favours extending the provisions of the Bonus law "to all industrial and commercial establishments .....with no reference to the number of workers employed therein".

14.9 The Hind Mazdoor Panchayat (HMP) has stated in its memorandum that since the enactment of the Payment of Bonus Act, workers numbering less than 20 are being denied bonus. In the absence of statutory provision for payment of bonus in establishments employing less than 20 workers the practice is entirely discretionary. In commercial establishments a fixed amount is paid by way of Diwali Bakshish but it is not a general rule. In hotels and restaurants employing less than 20 persons, by and large bonus is not given. The HMP suggests that even in establishments other than factories employing even one person bonus should be granted to the employee. The HMP feels that the elaborate bonus formula now being applied in the industrial establishments will be too complicated for establishments other than industries.

14.10 The Textile Labour Association (Almedabad), in its memorandum, has stated that normally the shop assistants do not get the benefit of bonus as known to the industrial workers. However, in some small business establishments the shop assistants are given some money known as 'Boni' on the occasion of Diwali. The amount of such payment is very meagre and is only found in large cities like Almedabad, Baroda, Rajkot, etc. But the shop assistants are found everywhere, in a small village and also a big city like Ahmedabad. The Association therefore desires that the benefit of the Bonus Act should also be extended to them in the same manner as it is given to the employees of the establishments employing 20 or more workers. The Association further thinks that the bonus formula as evolved by the Bonus Commission and as made applicable to the larger establishments under the Act may prove to be too complicated for use in smaller establishments and a simplified formula should be evolved for the grant of bonus to them. The smaller establishments have hardly any reserves. They have no block requiring depreciation. They are only concerned with the working capital and Profit and Loss Account.

#### Views of Employers' Organisations

14.11 On the other hand, the representatives of employers' organisations have expressed themselves uniformly and strongly as being opposed to the extension of bonus to smaller establishments, though some of them have conceded the advisability of responding to the demand of labour by lowering the size of establishment covered by bonus to one with 10 employees or more.

14.12 The Madras Piecegoods Merchants' Association has pointed out in its memorandum that on auspicious occasions of festivals and domestic functions like marriages in the families of the employers, the employees are the beneficiaries in the shape of gifts, cash and kind. Also, on such occasions of marriages in the families of employees, they are provided with loans and gifts in cash and kind depending on the years of service rendered by the worker. The Association further submits that the shops and commercial establishments stand on a different footing

from industrial establishments in matters like credit facilities, diversification of lines, consumer preference, laws of supply and demand etc. In the circumstances, in their considered opinion small establishments and shops employing 20 or less employees should be spared the statutory obligation of incurring a heavy burden of payment of bonus on a recurring basis, and the matter had better be left to be decided between the employers and employees, as hitherto, in the larger interests of both trade and employees. In the oral evidence the Association submitted that small establishments employing less than 20 persons do pay some bonus. The present industrial relations are good but if the establishments are made to pay bonus by law the harmony of relations will be affected; the good relations may not be disturbed by lowering the limit to 10 persons in the establishment.

14.13 The Delhi State Cloth Retailers Board in its memorandum has urged that small trading establishments as a whole should be exempted from the purview of the Act. It is further pointed out in its memorandum that even in Latin American countries like Chile and Peru, where legislation exists on the subject, small trading establishments (in most cases having less than 50 workers and in all cases less than 20 workers or having a small capital) have been totally exempted from its purview looking to their limitations and difficulties. Recently, in an industrially advanced country like France while adopting these socialistic measures, its ordinance in 1967 on "Participation in Profit-sharing" [Article 5(b)] provides: "Small and medium sized firms (having less than 100 wage earners) are thus not subject to those obligations which in certain cases would be beyond their possibilities". It is further pointed out that all these experiences in other countries clearly stress that small establishments should continue to be exempted from the purview of bonus as a legal obligation. As a matter of fact the experience of other countries warrants that the present exemption for the trading establishments employing less than 20 persons is hardly adequate for a developing country like India. Looking to the complications involved, the exemption limit in the case of trading concerns should be extended to establishments employing less than 50 persons.

14.14 The Federation of All India Foodgrain Dealers' Association has pointed out in its memorandum that it would be in the national interest to keep all concerns employing less than 20 persons completely out of the purview of the Bonus Act and no amendment on this line should at all be considered. If however, the Act is made applicable to them, the Association suggests that a separate formula based on a percentage of profits should be thrashed out and it should be provided that no bonus would be payable up to a certain limit of profit.

14.15 The Delhi Hindustani Mercantile Association in its oral evidence submitted that many small establishments were in the villages and rural areas and it was difficult to apply the formula with 'set off' and 'set on' to small establishments. Many small establishments did not pay income tax. The Association pointed out that 90 per cent of all small establishments in the country were not paying bonus. If

they were made to pay compulsorily either they would reduce the number of workmen or close down.

14.16 The Clothing Manufacturers' Association of India has suggested complete exemption of establishments which employ less than 20 persons. In the oral evidence it has submitted that small employers are not educated, have no adequate staff nor proper accounts and small establishments are the weaker section of the society.

14.17 The Indian Engineering Association, although it is not directly involved as it has no member employing less than 20 persons, has endorsed what it regards as the pragmatic approach of the legislation in the country which has, by and large, recognised the practical difficulties in administering the requirements in respect of such small establishments and avoided covering them. To obviate inconvenience to the small employer, who is ill-equipped to conform to the obligations of the law, they have favoured continuance of the *status quo* having regard also to the impracticability of enforcement of the extended coverage by Government.

14.18 The Council of Indian Employers is also not in favour of disturbing the existing position with regard to the bonus scheme in its application to small establishments. The Council in its second memorandum to the Committee has observed: "The Payment of Bonus Act also applies to all establishments employing 20 or more persons. This classification is based upon sound justification and the recognition of the fact that smaller establishments will find it difficult to pay bonus. Any attempt to extend the scope of the bonus scheme to establishments employing less than 20 persons would place these small establishments under severe stress and hardship. It needs no convincing that the formula and the mechanics of arriving at the available surplus has been laid down with reference to the working of an organised industry, and, therefore, depreciation and development rebate etc. are allowed to be deducted as prior charges in arriving at the available surplus. Small commercial establishments are not in a position to avail of these deductions, nor are they in a position to maintain an office to keep regular accounts, and they find it extremely difficult to engage the technical services of a person who can work out precisely the amount of bonus to be paid. Besides, these are the establishments which have limited resources and if they are called upon to pay even the minimum bonus, in many cases their running of business would be in jeopardy".

14.19 Among public sector units some are in favour of extending bonus to establishments employing ten or more persons, while others suggest continuance of the present basis of exemption with regard to size of the establishment. Their views are summarised below.

14.20 The Hindustan Shipyard Limited, Visakhapatnam has suggested that the scope of application of the bonus may be extended to all the factories coming under the purview of the Factories Act and also to

shops and establishments employing 10 or more persons. It may be desirable to evolve a simplified formula for the purpose of determining the quantum of bonus in respect of smaller establishments.

14.21 The Electronic Corporation of India Limited, Hyderabad has suggested that establishments employing less than 20 persons should be exempt from payment of bonus with a provision that there should be legislative prohibition of breaking down bigger establishments for avoiding such payments.

14.22 The Hindustan Steel Works Construction Ltd., has suggested lowering the size of industrial establishments covered to those employing 10 and more workers, and strengthening the machinery for enforcement of the provision so that larger establishments do not split up for evading the Bonus Act provisions.

14.23 The Madras Refineries Ltd., in its memorandum has pointed out that extending the coverage to establishments (other than factories) employing less than 20 workers is likely to impose burden on small establishments, push up the cost structure and add to inflationary pressures. However, in terms of "social justice," it would be desirable to cover establishments employing 10 or more workers. The formula should be the same for all establishments, whether the present one or a somewhat revised general formula.

14.24 The National Seeds Corporation is of the view that the establishments employing less than 20 workers can be deemed to be small-scale industries and as an incentive to such an entrepreneur, such establishments be excluded from the payment of bonus.

14.25 Of the private sector units, most have opposed lowering the present exemption limit by size. Some have favoured, or not opposed, bringing down the limit of exemption to 10 or more workers, with a specific suggestion sometimes of excluding the owner and his family members from the number of workers. While simplification of the formula has been favoured generally, the need for uniformity of the formula for all concerns has also been stressed. On the other hand, no exceptional difficulty has been visualised in applying the formula, if lowering of the limit of size is restricted to concerns employing 10 or more workers. A suggestion has also been sometimes advanced to fix a limit of size in terms of turnover of an establishment.

14.26 Among State Governments, two have suggested extension of the Act to all small establishments, without any limit as regards the number of employees.

14.27 Thus the Government of Maharashtra, (Industries and Labour Department), in its brief letter dated the 19th April 1973 has stated as follows: "The policy of the Government of Maharashtra in the matter of the coverage of the Payment of Bonus Act, 1965 is that it should be applicable to employees employed in production and commercial activities only.

Further, it is also the policy of this State Government in this behalf that within the aforesaid activities, the Act should be applicable to such establishments or concerns irrespective of the number of employees employed therein. As regards factories or establishments employing less than 10 or 20 persons as the case may be, which are at present not covered by the Payment of Bonus Act, this State Government has suggested payment of bonus for employees in such concerns or establishments at a flat rate of 8½ per cent of annual wages, as these establishments will not be in a position to maintain balance sheets and profit and loss accounts and it will be difficult to apply the bonus formula in such cases".

14.28 The Government of Tamil Nadu in its memorandum has stated that the extension of the Act to the establishments employing less than 20 workmen may be recommended. There need not be any limit to which such extension be restricted and the Act may be extended to even establishments having one employee. As the minimum bonus is only 8½ per cent of the total annual earnings of a workman, which is equivalent to one month's wages, therefore there is no need to prescribe any separate formula for smaller establishments. Smaller establishments will have to meet small commitments in respect of their small labour force. In this connection, it is pointed out that even now there is a practice of paying one month's wages as bonus in small establishments like hotels commercial establishments etc. at the time of Deepavali in October-November or Pongal in January each year.

14.29 Other State Governments have, on the other hand, proposed more limited modifications in the Act in relation to small establishments. Thus the Government of Andhra Pradesh has pointed out that there is a discrimination in the coverage of workers employed in factories and establishments. This discrimination needs to be removed by extending the coverage of the Act to establishments employing 10 or more workers. At present the workers employed in establishments employing less than 20 workers are also paying bonus either by custom or by practice of about one month's salary or wage. There is need to bring this class of employees also under the purview of the Act.

14.30 The Government of Madhya Pradesh has stated that some commercial establishments and shops, particularly those engaged in wholesale and retail textile trade, pay bonus on an *ad hoc* basis on festivals like Diwali etc. No set scheme has been evolved by such establishments but bonus is paid equal to salary drawn during a period which ranges from 15 days to one month or so. It has further suggested that the Payment of Bonus Act should be applied to establishments employing 10 or more persons. This will not only bring uniformity in the application of legislation like Factories Act, Payment of Gratuity Act, the Payment of Bonus Act, but will also give "level shape" to the Payment of Bonus which is at present dependent on the sweet will of the employer. It is felt that the present formula under the Payment of Bonus Act may prove com-

plicated in respect of smaller establishments and as such it is necessary to simplify the formula.

14.31 The Government of West Bengal has suggested that it is a fairly common practice for non-factory establishments in West Bengal employing less than 20 persons to pay an amount varying from 15 dyas to 1 month's wages on *ex-gratia* basis as bonus. These payments are not linked with bonus formula as envisaged in the Act. As far as it is known, no bonus as prescribed under the Payment of Bonus Act is paid in these establishments. Some sort of *ad hoc* gratuitous payment is made by some of these concerns. It is seldom linked with profit. Coverage may be extended to all establishments employing ten or more persons which are 'industries' under the Industrial Disputes Act 1947.

14.32 The Government of Rajasthan has stated that Payment of Bonus Act should be made applicable to all industrial establishments employing 10 or more workers but for smaller establishments having 20 or less employees, bonus should be fixed at a flat rate.

14.33 The Government of Punjab has pointed out that generally there is no system of payment of bonus in non-factory establishments employing less than 20 workers in the State but in the cinema houses, the payment of bonus is a general practice. Certain cloth merchants' establishments and establishments of commission agents dealing in foodgrains also pay some bonus to their workmen.

14.34 The Gujarat Government considers that "generally the existing coverage of the establishments under the Act appears to be adequate. However sometimes the employers are found resorting to certain malpractices, like partitioning of factories, etc. to evade the provisions of labour legislation. In such circumstances the provisions of the Factories Act, 1948 are applied by notification under Section 85 of that Act wherever necessary. However, the employees of such establishments do not get the benefit of Payment of Bonus Act. We are, therefore, of the view that all the factories to which all or any of the provisions of the Factories Act, 1948 are applicable should be covered under the Payment of Bonus Act. There is no necessity of separate formula for payment of bonus in such factories."

14.35 Among Central Government Departments the Ministry of Defence (Department of Defence Production in its memorandum has suggested that small establishments employing less than 20 persons should be kept outside the purview of the bonus scheme. The Ministry of Works & Housing in its memorandum has stated that it may not be very practicable to extend the application of the Bonus Act to smaller establishments, unless they happen to be registered under the Companies Act. If, however, it is eventually decided to extend the Act to smaller establishments, a much more simplified formula based on say profits as disclosed in the annual income-tax returns should be decided.

### Views of the Committee

14.36 From a perusal of the above and other evidence it appears that although there is no statutory compulsion for small establishments employing less than 20 persons to pay bonus, custom and usage obtain in parts of the country and in some trades to pay some bonus to employees at the time of festival holidays like Diwali, Puja etc. In some cases, the amount of bonus varies from year to year while in many cases it is relatively constant. Sometimes the bonus in small establishments is related to the wages/salaries of employees, but quite often it bears no such relationship.

14.37 Almost all employee organisations and two State Governments favour extending the coverage to all establishments with a flat-rate bonus or bonus under a simplified formula for the smaller establishments. Most of the employers' organisations are of the opinion that the *status quo* may continue and the Act need not be amended to make it obligatory for employers employing less than 20 persons to pay bonus. Some employers' organisations and a few State Governments do not see any difficulty about extending the bonus to establishments having 10 or more employees; no special difficulty is visualised about retaining the present formula if lowering the size of small establishments is limited to ten or more persons.

14.38 Many of the labour laws exempt establishments employing less than a certain number of employees from the operation of the Acts. The Payment of Gratuity Act, 1972 which is a latest addition to the statute book exempts establishments employing less than 10 persons from the purview of the legislation. Similarly the Employees' Provident Funds and Family Pension Fund Act, 1952, the Employees' State Insurance Act and the Contract Labour (Regulation and Abolition) Act, 1970 apply to factories or establishments or contractors employing 20 or more persons. The Industrial Disputes Act, 1947, covers all industries as defined in the Act, but its provisions relating to lay-off compensation do not apply to establishments employing less than 50 persons. Such important labour laws as the Payment of Wages Act, 1936, and the Factories Act, 1948 cover (i) factories using power and employing 10 or more persons and (ii) factories working without the aid of power and employing 20 or more persons. Thus, presumably on grounds of financial ability as well as administrative feasibility, small establishments have usually been excluded from the application of many labour laws.

14.39 On the other hand, trade union organisations have pointed out that in the establishments covered by the Shops & Establishments Act, there is no limit of number of employees for the application of the Act. Nor is there any such limit in the application of the Minimum Wages Act wherever it does apply. It is thus suggested that the analogy of these laws is also relevant and the Bonus Act should be extended to all establishments employing even one employee.

14.40 As regards the formula for payment of bonus, no organisation, either of employers or of employees, has suggested any specific formula for small establishments. The suggestion has, however, been made that (a) either the general formula as simplified for all concerns should apply to small establishments (e.g., by INTUC), or (b) the small establishments should be made liable to a standard bonus equal to the minimum level of the general formula (e.g., by some State Governments) or (c) the small establishments should pay the standard bonus as a minimum with a possible higher bonus through collective bargaining and agreement.

14.41 In considering the question of the scope of the Act in relation to small industrial and commercial establishments, the majority of the Committee is impressed by the following considerations.

- (a) All over the world there is a measure of consideration shown to the needs and problems of small industry and small business with regard to the extent of legislative regulation of their operations.
- (b) In most cases of legislation relating to labour, industry or business in the country, there is a limit of size below which the standards of legislative prescription do not apply to small enterprises.
- (c) Studies of profitability in manufacturing industry indicate that profitability declines steadily with a reduction in size. (Please see table after paragraph 5.4 in Chapter V as an illustration).
- (d) Even in respect of shops and commercial establishments the relevant Acts are applicable only in notified areas whose population is above certain limits and the scope of these Acts is not universal.
- (e) An extension of the Act so as to give it universal coverage without the possibility of extending arrangements for implementation of the measure on a countrywide basis, including the smallest population units and remote areas, is not likely to be helpful for an effective extension of the scope of bonus legislation to the smallest units.
- (f) The small employer with one or two employees only is often himself a very small man with his own income perhaps not above the level of living wages or fair wages, or even possibly not above a subsistence wage, and the imposition of an obligation to pay bonus without any investigation of the capacity on his part to do so, is likely, if successful, to restrict expansion of employment.
- (g) In an economy in which unemployment is a most serious problem and expansion of employment must remain a prime objective of policy, the imposition of legislative regulation which would interfere with the process of extension of employment, would be a retrograde measure.

(h) It may be that many small establishments were in receipt of bonus before the Payment of Bonus Act, and it may not be legally possible for employees of small establishments below any prescribed limit of size to claim bonus. But the fact that employees in many such establishments in organised centres and trades were probably in receipt of bonus has to be balanced against the fact that many more employees were perhaps not receiving bonus. And there is the unavoidable handicap of extending the scope of legislative regulation that it tends to impose uniformity where there was diversity of practice before. In determining the limit for legislative prescription of obligations, therefore, a balance has to be struck between the considerations for and against going below a certain size of enterprise.

14.42 Taking account of the whole evidence before the Committee and the considerations brought to our attention, the following alignment of views in the Committee has emerged.

14.43 Sarvashri R.P. Billimoria, N.S. Bhat and Harish Mahindra are of the view that on the question of coverage, there should be no further extension whatever of the scope of the Act, and therefore also in respect of establishments employing less than 20 workers. They make this recommendation having regard to the present condition in the country and the severe strains on the economy as also practicability of enforcing the provisions of the Act in such small undertakings. Shri Mahesh Desai wishes to reiterate the view expressed by the workers' organisations in the Interim Report that the Act should be extended to cover all wage and salary earners in all areas of employment. He wants that bonus as a statutory right should be available to all sectors of employment irrespective of the nature, character, age or volume of the employing unit. Shri G. Ramanujam is of the view that eligibility to bonus in the case of non-factory establishments should be co-extensive with the applicability of Shops and Commercial Establishments Acts. Since these Acts do not prescribe the minimum number to be employed in any unit for the Act to cover it, the Payment of Bonus Act also should apply to all of them without any lower limit as to the number employed.

14.44 The Chairman and Dr. S. D. Punekar recommend that the scope of the Payment of Bonus Act should be extended so as to cover non-factory establishments employing 10 or more persons; this is also the alternative favoured, explicitly or implicitly, by several State Governments which have to administer the Act. No change in the general bonus formula should be necessary if the further extension of the Act is restricted to lowering the limit of size of non-factory establishments covered to 'ten or more persons'.

## CHAPTER XV

### SPECIALISED INDUSTRIES

#### A. BONUS AND EMPLOYEES IN ELECTRICITY UNDERTAKINGS

##### Views of the Bonus Commission

The Federation of Electricity Undertakings in India urged before the Bonus Commission that the peculiar features of the Electricity Undertakings might be borne in mind in applying the bonus formula to those undertakings. In particular, the Federation put emphasis on the fact that the concept of "reasonable return" and the mode of computing the "clear profit" and its relation with the "reasonable return" were statutorily defined for electricity undertakings. The Federation invited the attention of the Bonus Commission to the Sixth Schedule of the Electricity (Supply) Act which laid down: "The licensee shall so adjust these rates for the sale of electricity whether by enhancing or reducing them that his clear profit in any year of account shall not, as far as possible, exceed the amount of "reasonable return". The Federation pointed out that for enhancing the electricity rates there were certain mandatory provisions to be followed which did not permit an increase in the rates unless certain preconditions were satisfied. The Federation further pointed out before the Bonus Commission that according to the terms of licence, the licensee was required to meet the entire demand for power within his area of supply irrespective of whether it was economical for him to cater to such demand or not; the return on the capital base was then allowed at only 6 per cent; there had to be a contribution to reserves at a certain rate and they had to be invested in Government securities; interest paid on loans was not allowed as expenditure; the industry was capital intensive and the capital invested then was about Rs. 300 crores, and more than half of the Electricity Undertakings in India at that time did not pay bonus. The Federation therefore submitted that Electricity Undertakings were rigidly controlled Public Utility Undertakings and bonus should not be allowed to be claimed as a matter of right and in any case should not exceed the equivalent of two months' basic pay.

15.2 The Bonus Commission was of the view that there was no good ground for exempting Electricity Undertakings from the general approach to bonus because disputes regarding bonus in Electricity Undertakings were referred to Industrial Tribunals and were decided in accordance with the full bench formula of the Labour Appellate Tribunal. The Commission therefore recommended that the general formula should apply subject to the condition that as in the case of banks and cooperative societies, the amount required to be transferred by statute from the profit of the year to the reserves should be allowed as a prior charge. The formula would of course not apply to

electrical supply undertakings operated by Municipalities for the terms of reference to the Bonus Commission excluded industries in the Public Sector run departmentally. Consequently the Electrical Undertakings other than those departmentally run were included within the purview of the Payment of Bonus Act.

##### Views of the Organisations of Labour

15.3 The Tata Hydro Cos.' Employees' Union in its memorandum submitted to the Committee has pointed out that the Tata Hydro Electric Power Supply Co. Ltd., The Andhra Valley Power Supply Co. Ltd. and the Tata Power Co. Ltd., which operate under the provisions of the Electricity Supply Act, 1948 earn their "reasonable return" under the said Act, whereas for the purpose of payment of bonus to the employees, the management take full advantage of "the contradictions between the Bonus Act and the electricity supply act, viz., (a) computation of depreciation and (b) provision for development rebate etc."; that even when the service to the consumers is satisfactory and the companies are earning their reasonable return to which they are entitled, the surplus for the payment of bonus is shown to be nil or negative and that this is solely because of "notional" deductions allowed while calculating surplus for payment of bonus even in the case of the electricity industry which is a controlled industry and which is not allowed to charge whatever rates it should want to charge for the supply of electricity.

15.4 The Union has invited the attention of the Committee to item 6 of the Third Schedule to the Payment of Bonus Act which allows certain appropriations to reserves under the Electricity Act as deductions in computing available surplus for bonus. One of the appropriations allowed is Development Reserve. The Union points out that electricity companies are also allowed to deduct Development Rebate under Section 6(b) of the Payment of Bonus Act; that it is well-known that Development Reserve flows from the Development Rebate and that both the Development Rebate as well as Development Reserve should not be deducted while calculating surplus for bonus.

15.5 The Union has suggested the following amendments to the Payment of Bonus Act.

##### (i) Section 6(a)—

The depreciation to be deducted from the Gross profits should be the depreciation as prescribed under the Electricity Supply Act, 1948 which at present is

allowed to be deducted under the Act while computing the "clear profits".

(ii) *Section 6(b)*—

The deduction of development rebate should not apply to electricity industry in view of the item 6 under the Third Schedule to the Payment of Bonus Act.

(iii) *Section 6(c)*—

The actual direct taxes paid or payable only should be deducted from the gross profit since it is only the actual taxes paid or payable which are allowed as a deduction while computing the "clear profit" under the Electricity Supply Act.

15.6 The Akhil Bharatiya Vidyut Mazdoor Sangh, which submitted its memorandum late in June 1973, has adopted the same argument as the Tata Hydro Cos.' Employees' Union.

#### **Views of the Federation of Electricity Undertakings of India**

15.7 The Federation of Electricity Undertakings in India in its memorandum has represented as follows :—

"Prior to the enactment of the Electricity (Supply) Act 1948 payment of bonus to workers in the Electricity Supply Industry, like other industries, was subject to bipartite negotiations or settlement by Court. After the enactment of the Electricity (Supply) Act specific provision was introduced in respect of payment of bonus to the employees in the Electricity Supply Industry. The specific provision is contained in Paragraph XVII(2)(b)(xvii) of the Sixth Schedule to the Electricity (Supply) Act which reads as follows—

"(xiii) bonus paid to the employees of the undertaking—

(a) where any dispute regarding such bonus has been referred to any tribunal or other authority under any law for the time being in force relating to industrial or labour disputes, in accordance with the decision of such tribunal or authority;

(b) in any other case, with the approval of the State Government."

After this enactment bonus to employees has been paid on the basis of past practice and this has been the quantum generally sanctioned by the respective State Governments.

"After the enactment of the Payment of Bonus Act, 1965, the minimum limit of 4 per cent was laid down. Following this, State Governments permitted the respective Electric Supply Undertakings to pay bonus at 4 per cent, or what was customary, whichever was higher, in accordance with past practice.

"There have also been some stray cases of consent awards being obtained from Courts for payment of bonus beyond the minimum of 4 per cent.

"In any expanding undertaking, payment of bonus beyond the statutory minimum of 4 per cent currently fixed, will not be payable as for purposes of determining the Clear Profit under the Electricity (Supply) Act the depreciation is in accordance with the scales laid down in Table A appended to the Seventh Schedule to the Electricity (Supply) Act, as against the notional income-tax scale of depreciation taken into account for determining bonus under the Payment of Bonus Act. In contrast, in the case of other industries the income-tax scale of depreciation is taken into account. Unlike other industries, the Industry is not permitted to recover from the consumers the income-tax scale of depreciation and thus provide for a Deferred Tax Reserve. On the other hand, this benefit is passed on to the consumer, the benefit being the difference between the limited depreciation permitted by Para VI of the Sixth Schedule to the Electricity (Supply) Act and the comparatively larger quantum of depreciation under the Income Tax Act in the early years. Then again the return on capital in respect of the Electricity Supply Industry is 7 per cent on the Capital Base prior to 31st March 1965 and 2 per cent over the Reserve Bank Rate thereafter. This is also a factor which goes towards contracting the available surplus.

"All these restrictive factors therefore lead to the quantum of bonus payable by the Electric Supply Industry being limited to 4 per cent in terms of the Payment of Bonus Act.

"Payment of bonus is a prior charge in determining the Clear Profit in the case of the Electric Supply Industry whereas in respect of other industries bonus must come out of the disposable surplus. This factor alone makes it difficult for a rational approach to the payment of bonus to the workers in the Electricity Supply Industry and consequently it is felt that the Electricity (Supply) Act having made specific provision in this regard it should be left to the State Governments, as is now being done in terms of the Act, to determine the quantum of bonus.

"If on the other hand the minimum bonus is to be enhanced by, say hundred per cent, the operating expenditure to that extent will enhance which would in turn reflect in enhanced charges for electricity supply."

The Federation has further stated that "the Electricity Supply industry should be left out of the consideration of the Bonus Review Committee, and that it should be left to operate within the ambit of the Electricity Supply Act, 1948".

#### **Views of the Committee**

15.8 Under the Sixth Schedule, the management of the Electricity Undertakings is required to create (i) Tariff and Dividends Control Reserve, (ii) "Contingencies Reserve", and (iii) Development Reserve,

and depreciation has to be provided as per the table appended to the Seventh Schedule. The Schedule also provides that the "clear profit" in any accounting year shall not as far as possible exceed the amount of "reasonable return", which is defined as stated above in the representation of the Federation of Electricity Undertakings.

15.9 Annexure I to Chapter V which is a statistical table containing information on gross profits, prior charges, deductions of allocable surplus, rate of bonus payable as per the Payment of Bonus Act and the bonus actually paid for various companies, also contains information for ten electricity undertakings which have supplied information to the Committee. From the statement, it appears that only in the case of four companies in the year 1970 there was available or allocable surplus. The bonus rate as per formula was 4 per cent for majority of the companies. Irrespective of the rate of bonus yielded by the formula, the actual rate of bonus paid, which was approved by the State Government concerned in each case, varied little between 1965 and 1970.

15.10 In practice payment of bonus in the industry has been governed largely in terms of the provisions of the Electricity Supply Act which includes specific provision for approval by the respective State Governments which barring a few exceptions have in effect resulted in degree of stability in the actual rates of bonus in a public utility service. As stated above, the profits of the industry, under the Electricity Supply Act, are controlled in terms of "the reasonable return" criterion with tariff schedules for consumers rigidly regulated and the industry is in a rather special category.

15.11 Though the rates of bonus in the electric supply industry are approved by the State Governments unless a dispute regarding such bonus is referred to any tribunal or other authority, the Chairman, Shri Billimoria, Dr. Punekar and Sarvashri Bhat and Mahindra recommend that the Electricity Supply Undertakings should continue to be included within the purview of the Payment of Bonus Act and bonus should continue to be determined as it is now with the approval of the State Governments in terms of the Sixth Schedule, XVII(2)(b)(xiii). Again as at present the formula of the bonus should continue to apply as a guideline in the event of reference of a dispute for decision to a tribunal or other authority. They have considered the suggestions for specific amendment of the present Act made by an employees' union and consider that there is no case for changing the basis of depreciation or direct taxes from what are statutorily chargeable to the actuals: a reference to the Development Reserve under the Sixth Schedule also indicates that its scope is very different from that of development rebate, being "equal to the amount of income-tax and super-tax.....on the amount of development rebate". As such, the formula as a general guideline should remain unchanged.

15.12 Sarvashri G. Ramanujam and Mahesh Desai are in favour of continuing the present practice of deciding bonus disputes in electricity undertakings by the method of collective bargaining under section 34(3) which they have recommended should be retained in the Act.

## B. BONUS AND EMPLOYEES IN TEA PLANTATIONS

15.13 The case of the Tea Industry was examined by the Bonus Commission to see whether separate treatment should be given to that industry in respect of the general formula for bonus recommended by the Commission. The Commission recommended that the employers' associations and the unions concerned should continue the previous practice of arriving at industry-wise agreements with regard to payment of bonus with such modifications as might be agreed to by them. The Commission was of the opinion, after taking into consideration the history, progress and the position at the time of the plantation industry, that it would be in a position to pay the minimum bonus recommended by the Commission. The Commission also did not see any good reason for recommending exemption in the case of tea plantations from the general bonus formula recommended for other industries; nor did it recommend any modifications of the formula in its application to the plantation industry even if the industry was unable to renew bonus on an industry-wise basis. One member, who appended a minute of dissent to the Commission's Report, recommended as a prior charge "replantation allowance" for such parts of tea, rubber, coffee and plantation estates as were planted (or replanted) more than 10 years prior to the accounting year and were actually under plantation crops during the accounting year. The replantation allowance recommended was to the extent of 10 per cent of the balance of profits remaining after deduction from the gross profits, of prior charges of Depreciation, Taxation (excluding SPT), Return on Capital & Reserves, and SPT. However, the Payment of Bonus Act does not reflect any modified formula or variations of prior charges so far as the tea industry is concerned.

### Representations of the Tea Industry

15.14 We have received memoranda from various associations in the tea industry as well as from the Consultative Committee of the Plantation Associations. They have submitted for our consideration the following special features of the tea industry: (1) The industry carries out mainly agricultural operations and the processing of tea leaf forms but a minor part of the operations of the industry. The economic condition of the industry, which is largely agricultural in character, depends considerably on the vagaries of nature. (2) Tea is a labour-intensive industry with wages accounting for roughly 60 per cent of the total manufacturing cost. (3) The tea companies unlike capital-intensive industries are not allowed any depreciation on their main assets, namely, the tea bushes and therefore any formula based on profits related to depreciation will affect it more adversely than others. (4) The Tea Industry is an export-oriented industry and the prices of tea are settled by the world demand and supply in a fiercely competitive market. International prices have been steadily declining and the industry is apprehensive that this trend will continue. The result is low profitability. (5) Over the last 10 years only a microscopic section of the industry was able to show an allocable surplus sufficient to pay bonus at a rate higher than the minimum

(6) Majority of the companies have paid the minimum bonus only, generally out of the reserves or at the cost of essential prior charges. There are many tea companies which have large accumulated losses since 1964. The 'set on' and 'set off' provisions in the Bonus Act have become illusory in the case of this industry simply because there were no accruals on account of the 'set on' against which amounts to be 'set off' could be adjusted. Since the inception of the Payment of Bonus Act, the profit position of majority of the tea companies has deteriorated. This conclusion is supported by the Working Group on Tea Finance set up by Reserve Bank of India which reported in 1972, and confirmed that the profitability of the industry had been steadily eroded and that the mounting costs of production without corresponding increase in prices did not permit sufficient cash accruals for plough-backs and development.

15.15 In view of the above considerations, it is urged by the representative Associations of the industry that where tea companies show continuous losses for more than 4 years they should be fully exempted from payment of further bonus under section 36 of the Payment of Bonus Act until the losses have been recouped.

#### Views of the Committee

15.16 It is true that tea companies are not entitled to get the benefit of depreciation as a prior charge to the extent other capital-intensive manufacturing industries would be getting the said benefit under the Income-tax Act. However, there is an alternative benefit for the tea industry in lieu of the above benefit. Under section 33A of the Income-tax Act, 1961, an assessee who plants tea bushes on his own land in India gets a deduction of a "development allowance" to the extent of 50 per cent of the actual cost of the planting where tea bushes are planted for the first time, whether in a new plantation or extension of an old plantation, and he gets the full actual cost of replanting or replacement of old bushes as revenue charge.

15.17 The Association's submission that a large number of companies was making losses year after year was particularly corroborated for the year 1968-69 and 1969-70 by the working results of companies as well as generally by the observations of the Working Group on Finance for Tea Industry appointed by the Reserve Bank of India in 1972.\* However, an analysis of the position of the tea companies for 1970-71 and 1971-72 which is given in the enclosed tables (annexed to this Chapter) brings out an improvement in the working results of tea companies over the previous two years, though the results for 1971-72 show some deterioration as compared with 1970-71.

15.18 Having considered the position as a whole, the Committee does not recommend any change in the bonus formula in application to tea plantations. They note that while the Committee has not shown a response to the demands of the industry for special treatment in regard to bonus the Committee has also not shown any response to the plea of the labour representatives made during oral evidence regarding the inclusion of kind payments in the base of wage/salaries on which bonus is calculated. Elsewhere, a majority of the Committee has recommended that section 36 of the Payment of Bonus Act should be resuscitated to alleviate the burden of minimum bonus in exceptionally hard cases.

15.19 The Committee by and large has not received representations for a change in the formula in application to other Plantation industries, except on the issue of 'rehabilitation allowance' for rubber. Rubber Plantations are allowed a "rehabilitation allowance" in accordance with the agricultural income-tax laws of Tamil Nadu and Kerala States, but as this is not termed either as "depreciation" or "development allowance", it is not eligible for deduction as a prior charge under sub-clause (a) or sub-clause (b) of section 6 of the Bonus Act. The allowance was introduced on the recommendation of the Tariff Commission which specifically noted the disparity in treatment of rubber and tea, in the latter case under the Indian Income-tax Act and under the Madras Agricultural Income-tax Act, actual expenditure for replanting being allowed as a revenue expenditure.\*\* The majority of the Committee considers that section 6 of the Bonus Act should be suitably amended so as to make "Rehabilitation or Replantation Allowance" in rubber plantations under the agricultural income-tax laws of Tamil Nadu and Kerala States a prior charge deductible from gross profits under the Bonus Act. Sarvashri Ramanujam and Mahesh Desai dissent from this recommendation and favour continuance of the *'status quo'* here.

ANNEXURE  
Number of Tea Companies incurring losses

Year	Cos. whose gross profits were negative	Cos. whose pre-tax profits were negative	Cos. whose retained profits were negative	Total No. of Tea Companies
1965-66	.	14	26	53
1966-67	.	11	23	50
1967-68	.	11	23	44
1968-69	.	37	57	77
1969-70	.	42	60	79
1970-71	.	19	31	45
1970-71	.	19	30	43
1971-72	.	23	37	60
				134

\*It is observed as follows : "While on the one hand the number of companies incurring losses has increased and the total dividends as percentage of total paid-up capital has declined, certain sections of the industry have not taken steps to conserve the available resources. In fact dividends as a proportion of net worth calculated even on the basis of book value are too low to be considered significant. Of the 134 selected companies, the number of companies which have drawn on their reserves for purposes of distribution of dividends has gone up from 44 and 41 in the year 1966-67 and 1967-68 respectively to 74 in the year 1968-69. This is not to minimise the non-financial factors affecting the viability and growth of the tea industry."

\*\*Report on the Revision of Raw Rubber Prices, Tariff Commission, Government of India, Bombay, 1960.

*Profit of 135 Tea Companies*

Year	(In lakhs of rupees)			
	Gross Profits	Profits before tax	Profits after tax	Profits retained
1965-66	845	721	295	14
1966-67	944	794	368	64
1967-68	1163	1007	430	107
1968-69	763	590	219	-40
1969-70	901	712	236	-68
1970-71	1316	1109	519	156

*Profit of 134 Tea Companies*

Year	(In lakhs of rupees)			
	Gross Profits	Profits before tax	Profits after tax	Profits retained
1970-71	1435	1206	568	187
1971-72	1284	1003	405	28

**Note:**—The number of Tea Companies for the period 1965-66 to 1970-71 remained at 135 in the Reserve Bank Sample of 1501 Companies and was 134 in the revised Sample of 1650 Companies for 1970-71 and 1971-72.

**Source:**—Reserve Bank of India Bulletin September, 1972 and January, 1974.

*Profitability Ratios of Tea Companies*

(Number of Companies 135)

Year	Gross Profits as % of net sales@	Gross Profits as % of total capital employed	Profits after tax as % of net worth	Dividends as % of Net worth	Paid-up capital
1965-66	8.6	9.2	5.7	5.4	11.7
1966-67	9.3	9.9	6.9	5.7	11.4
1967-68	10.2	11.3	7.8	5.9	10.5
1968-69	6.6	7.3	3.8	4.5	7.8
1969-70	7.6	8.4	4.1	5.3	9.0
1970-71	9.9	11.0	8.6	6.0	10.5

(Number of Companies 134)

1970-71	10.2	11.4	9.0	6.0	10.6
1971-72	8.3	9.8	6.3	5.9	10.5

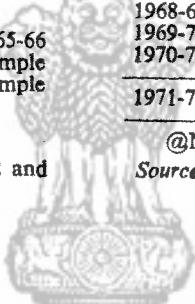
*Capital Formation Rates*

(Number of Companies 135)

Year	Gross fixed assets formation	Net fixed assets formation	Inven-tory accu-mula-tion	Gross capital forma-tion	Net capital forma-tion
1966-67	5.8	4.3	5.9	5.8	4.9
1967-68	6.6	6.0	14.5	9.1	9.6
1968-69	5.7	4.7	—4.0	2.4	0.9
1969-70	4.7	2.2	5.4	5.0	3.6
1970-71	4.2	1.0	25.4	10.8	11.2

@Net of rebate and discount and excise duty and cess.

**Source:**—Reserve Bank of India Bulletin September, 1972 and January, 1974.



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## CHAPTER XVI

### SPECIALISED INDUSTRIES

#### C. BANKING

Before the Payment of Bonus Act came into force, payment of bonus in the banking industry was regulated by the Award published in the Gazette of India dated 20th August, 1962 of Justice Shri K. T. Desai to whom the dispute on the principles of bonus in banks had been referred by the Government of India (Ministry of Labour). The Bonus Commission expressed the opinion that the entire formula of the Desai Award which itself followed, in the main, the Full Bench Formula of the Labour Appellate Tribunal, should continue to be applicable to banks with certain modifications. These modifications were in the direction of extending to banks the main elements of the general formula for manufacturing and other concerns, e.g., the proportion of allocable to available surplus being placed at 60 per cent; the minimum and maximum bonus being fixed at 4 per cent and 20 per cent respectively; abolition of distinction between reserves used as working capital and reserves not so used; absence of any specific provision for rehabilitation; application to banks of the Commission's recommendations regarding super profits tax, donations, extraneous profits and losses, and provision for deduction of depreciation under the Income-tax Act except where for any earlier year bonus had been paid after making deduction of notional normal depreciation, in which case this should continue.

#### Present treatment of Banking vis-a-vis non-banking Companies

16.2 The Payment of Bonus Act, 1965, provided for computation of gross profits in the case of a banking company under a separate Schedule, which allowed for some special features of the banking companies, mainly as recommended by the Bonus Commission. A principal difference in the two schedules for banking and other companies is about the starting point of the computation viz., in the net profits. In the case of employers in general net profits are as per Profit and Loss Account; in the case of banking companies, however, these are as shown in the Profit and Loss Account after making "usual and necessary provisions". Under section 34(A) of the Banking Regulation Act of 1949 in terms of an amendment made in 1960 no banking company shall, in any proceeding under or in connection with the Industrial Disputes Act, be compelled by any authority before which such proceeding is pending to produce or give inspection of any of its books of account or other documents or furnish or disclose any statement or information when the banking company claims confidentiality relating to (a) any reserves not shown as such in its published balance sheet; or (b) any

particulars not shown therein in respect of provisions made for bad and doubtful debts and other usual or necessary provisions.

16.3 Another difference between banking and other companies is in respect of the treatment of taxation. Whereas in the case of non-banking companies, as recommended by the Bonus Commission, direct taxes (including the provision if any) for previous accounting years are to be added back and tax as under the Income-tax Act is to be deducted, for banking companies there is neither add-back nor deduction of taxation where the provision for taxation is not disclosed; where the profit subject to taxation is shown in the Profit and Loss Account and the provision made for taxes on income is shown, the actual provision for taxes on income shall be deducted from the profit. There is also to be an add-back in banking companies of "any amount certified by the Reserve Bank of India in terms of sub-section 2 of section 34A of the Banking Companies Act 1949". This sub-section provides that the authority for an industrial dispute relating to a banking company may ask for a certificate from the Reserve Bank as to whether the transfers to reserves or provisions under sub-section (1) are to be completely left out of account for computation of gross profits for purposes of bonus or may be taken into account in the amount specified, if the latter, such amount could be added back. The rest of the provisions for computation of gross profit for banking and non-banking companies in the First and Second Schedules are identical.

16.4 Other differences between the treatment of banking and other than banking companies in the Bonus Act are reflected in the Third Schedule which deals with deductions from, or prior charges on gross profits to arrive at the available surplus. A main difference concerns the return on capital and reserves which is provided at 8.5 per cent and 6 per cent respectively in companies other than banking companies and at 7.5 per cent and 5 per cent in the banking companies. In the banking companies, there is, in addition, provision for deduction of allocation to reserves under section 17 of the Banking Companies Act or to any reserves in India in pursuance of any direction or advice given by the Reserve Bank.

#### Views of Bank Employees' Association

16.5 We may now refer to the proposals of organisations of employees and employers for suitable modifications in the Act or scheme of bonus relating to banks contained therein. The All-India Bank Employees' Association presented two memoranda to

the Committee, on the occasion of the interim enquiry regarding minimum bonus and in reply to the Committee's main questionnaire. Both the memoranda covered similar ground, the first memorandum having been also directed, over and above the question of minimum bonus, to the other issues before the Committee. The specific suggestions offered by the All-India Bank Employees' Association pertaining to the operation of the Act in the banking industry are as follows:

- (i) The present limit of Rs. 750 per mensem under section 12, being the limit of salary with reference to which bonus in respect of employees drawing higher salaries will be calculated, may be raised to Rs. 2,000 both for purposes of fixing the amount of bonus as in this section and in lieu of the limit of Rs. 1,600 per mensem above which under the Act is not payable.
- (ii) "The operation of the Act in connection with the banking companies has proved to be totally ineffective. As a matter of fact, it can be said that during the entire period since the enactment of this statute, its application in terms of the formula has rarely, if at all, been made applicable to any banking company, whether such a banking company be in the public or private or cooperative sector." This introduction to the section on operation of the Act is followed by a recital of a series of instances or provisions which are said to have made the Act wholly inoperative. The conclusion is : "The foregoing are some of the obstacles which have made the operation of the Act, in the Banking Industry wholly unsuitable. The fact exists that bilateral formula is decided upon mutually for determining the actual bonus payable to the employees in each unit of industry separately." The above introduction and conclusion to the review of working of Act appear also in the second memorandum of the Association in reply to the main questionnaire of the Committee.

16.6 The gist of the point regarding ineffectiveness of the Act and its formula in relation to banks is that the balance sheet of a bank under law does not reflect the actual position as it is made up after providing for "other usual and necessary provisions". It is mentioned that under "other usual and necessary provisions" the provision for income-tax and bonus to the employees may have also been secreted, highly excessive provisions for bad and doubtful debts or provisions for undervalued assets may have been made and profits might be curtailed by various expedients. The substantive provision in consequence of which the formula is stated to be rendered infructuous is as follows : "The Banking Regulations Act, 1949 was amended in the year 1961 and section 34A was incorporated therein. The incorporation of section 34A was a curtain imposed so that no authority could go behind what was secreted under section 34A of the Banking Regulations Act in the event of privilege being claimed by a Banking Company, when such secreting is done either at the behest of the

Government in the case of public sector banks or at the behest of the Reserve Bank of India in the case of private sector banks. It is obvious that no amount can be added back from therein to the gross profits as envisaged in the First Schedule 3(d) of the Payment of Bonus Act. This one item alone renders the entire formula infructuous".

16.7 No suggestion has been offered by the Association to make the operation of the Act effective or more effective, presumably in recognition of what is believed to be the nullifying effect of the secret reserves provisions of the Banking Regulations Act, which are supported by section 24 of the Payment of Bonus Act, and the difficulty of making any recommendation on the subject having regard to the wider context in which the matter must be considered.

#### **Views of Indian Banks' Association**

16.8 The Indian Banks' Association (I.B.A.) has submitted three representations to the Committee—one at the time of the interim enquiry and two in response to the main questionnaire of the Committee and following the oral evidence before the Committee. In furnishing its views to the Committee in response to the Committee's questionnaire, the Indian Banks' Association has taken care to mention that the views are those of bank managements and not of Bank Boards. The Association's views are well summarised and brought together in its third and final memorandum submitted in May 1973 following the oral evidence tendered by the Chairman and other members of the Committee of the Indian Banks' Association. The views focus on two main issues : (i) the need for "usual and necessary provisions", and (ii) bonus formula for the banking industry.

#### *Secret Reserves Provision*

16.9 Regarding (i), the final memorandum of the Association deals with the point made that transfers under "usual and necessary provisions" are large and unwarranted and therefore unfair to the employees as depriving them of their legitimate share of bonus. The argument on behalf of the employees appears to be that the bonus paid by banks only seems excessively high in relation to the available surplus—varying from 100 per cent to over 400 per cent of it—since the calculations of the available surplus are made with reference to net profits *after* such transfers to secret reserves and undisclosed provisions are made. The I.B.A. memorandum reiterates the statement of the Chairman of the Association made to the Committee in oral evidence that it is not possible for bankers to disclose the actual position of transfers to and the level of secret reserves and undisclosed provisions in banks, "because that would be against the law and public policy which require that the secret reserves and undisclosed provisions of the bank should be maintained confidential". Having stated this, the memorandum proceeds to explain the "character and real position" with regard to such transfers and undisclosed reserves. These are essential provisions for bad and doubtful debts and "other usual and necessary provisions" and are not subjective but are made as a result of long experience of lending business in terms

of certain confidential but well-established procedures recognised and approved by the statutory auditors of banks and by the Reserve Bank of India. As such they are not of arbitrary nature but are based on an objective assessment by the Boards on the basis of the past experience of the banks and the present structure of their lending business in consultation with statutory auditors. In actual fact "such provisions and reserves as they exist today are still considerably below the level that is required and necessary in the light of the existing structure of lending business of banks and the nature of risks to which it is exposed". Earlier, in an annexure to the second and main memorandum, the Association had spelt out at length the factors which underline the importance of building up reserves in the banking industry. These factors referred to : (a) requirement for banks to canalise more credit into priority sectors like agriculture, small-scale industries, and other sectors like road transport, operators, retail trade and small business, professional and self-employed persons, etc., characterised by higher degree of risk involved in lending and unsatisfactory recovery rate as well as low rate of return and higher operational costs of lending; (b) rapid branch expansion specially in the rural areas and un-banked backward regions; and (c) perceptible decline in the profitability of banks during the last few years, e.g., in gross profits from 13.9 per cent in 1965 to 9.5 per cent in 1970. The final memorandum goes on to refer to the existence of a provision for a certificate from the Reserve Bank under section 34(A)(2) of the Banking Regulation Act "where a question arises as to whether or not any amount of such reserves or provisions can be taken into account for computation of available surplus under the Payment of Bonus Act." It further states that the fact that the workers and officers are now represented on the Boards of Directors of banks should also dispel the fear that such annual transfers are excessive or the level of reserves and provisions is excessive. In view of the above the Indian Banks' Association concludes that the secret reserves and undisclosed provisions do not give unfair advantage to the banking industry in comparison to other industries in the application of the bonus formula.

#### *Bonus Formula and Banks*

16.10 On the other hand, in relation to (ii) above, viz., the bonus formula for the banking industry, the Association argues that there are features of the formula for banks which place the banking industry at a disadvantage. The capital base in the banking industry is very narrow—less than 2 per cent of the deposit liabilities as compared with a much higher capital in other manufacturing industries. Further, the fixed assets on which depreciation is admissible and which constitute an important element in the case of manufacturing industries, form an insignificant proportion of the assets in banks. The deductions and prior charges on account of these two elements are thus very much smaller in banks than in manufacturing industry. Also, the rates of return on capital and reserves available to banks are less than the rates available to the manufacturing industry has been eligible for development rebate and will have

the benefit of additional depreciation to a new industry set up in backward districts, the banking industry which is incurring a considerable expenditure on development through opening new branches in backward and under-developed areas has no such facility. The assets which are comparable to the fixed assets of manufacturing industry in the case of banks are the risk assets, namely advances and investments. Hence the Association has placed emphasis on additional transfers to reserves over and above those made under section 17 of the Banking Regulation Act to be made allowable as deductions or prior charges for calculation of available surplus.

16.11 The Association has, therefore, urged that banks may be allowed, as a prior charge for calculating available surplus under the bonus formula, a higher return on their capital and reserves and has proposed 4 per cent over bank rate as the rate of such return. It has also proposed additional "transfer to any other published reserves as may be made by Boards of Directors of banks at their own discretion, within certain reasonable limits that may be prescribed". The reasonable upper limit for such transfers would be : "until the level of published reserves and the Reserve Fund together is equal to 5 per cent of outstanding advances and discounted bills of a bank reported in its balance sheet".

#### **Views of the Committee**

16.12 In considering the Committee's approach to the problem of necessary adaptation of the formula for banks, the first question that arises is in regard to the treatment to be accorded to the provisions for transfers to secret reserves. On this, while the Employees' Association has complained that with the present provisions for such transfers, the employees' entitlement to bonus is likely to be adversely affected and the formula is rendered nugatory, they have not suggested a change in this provision presumably in recognition of broader considerations. This is, obviously a question that has to be decided on wider grounds which touch on the issue of public confidence in the banking system and we, for our part, do not feel competent to suggest any basic revision of the provision in this regard. We note that where there is a question regarding possible excessive transfers to such reserves having an impact on bonus, the matter can be taken up and a certificate from the Reserve Bank called. Although the principles of allocation to such reserves are well understood by banks and are prescribed by statutory auditors, the provision enabling a Reserve Bank certificate to be obtained ensures the possibility of specific review of such transfers and should act as a salutary safeguard against the interest of the employees being adversely affected through the operation of the so-called secret reserves provision.

16.13 If we were to take a cue for a formula for bonus from the two representations of the All-India Bank Employees Association, it seems that the best solution in the case of banks, assuming that the provision for transfers to secret reserves has to stand,

would be to let the bonus in individual banking units be determined by bilateral bargaining between the minimum and maximum limits established by statute. However, this alone would be an unsatisfactory framework in case a dispute were to arise, since the adjudicating authority would be left without guidance to determine the dispute. On balance, therefore, we feel that the general basis for determination of bonus in the banking industry should be prescribed in the statute relating to bonus itself.

16.14 Taking account of the increase in minimum bonus that has already occurred and the limit of maximum bonus proposed, the majority of the Committee considers that the terms of the general formula recommended will with minor modifications be reasonably adequate for banks. Besides, the special features of banking companies incorporated in the present legislation should continue.

16.15 It is true that the outcome of the general formula in application to banks has been, as the Indian Banks' Association has brought out in an annexure to its memorandum, to make the bonus paid very high percentage and even a multiple of available surplus. This fact itself has been interpreted on behalf of employees as an index of the ability of banks to pay higher bonus than under the present formula and, therefore, as an argument for modification of the formula in favour of the employees. On the other hand, banks have represented that these very high proportions of bonus to available surplus, and therefore the still higher proportions to allocable surplus, are proof of the duress under which bank managements have operated. Such high rates of bonus have entailed jeopardy to essential reserves and in effect violated and set at naught the statutory requirement for banks to transfer 20 per cent of net profits to reserves : they have paid such high bonuses only by drawing for the purpose upon reserves, which is not permissible under the law.

16.16 The rate of return on capital and reserves allowed as a deduction before calculation of available surplus is lower in banks at 7.5 per cent and 5 per cent respectively than in other companies (8.5 and 6 per cent respectively). The fact of transfers to reserves being treated as a prior charge was the reason advanced for the somewhat lower rate of return on capital and reserves allowed to banks as compared with manufacturing and other concerns\*. The majority of the Committee considers that allocations to reserves being intended primarily to safeguard the value of risk assets are the counterpart in banks of depreciation of fixed assets in manufacturing industry. In view of the considerable onus placed on banks to incur developmental expenditure on expansion of business in backward and rural areas, which is also more risky, the need for increased transfers to reserves continues. The majority of the Committee thinks, therefore, that it will be equitable to provide for the same rate of return on capital and reserves for banks as for other companies. Sarvashri Mahesh Desai and Ramanujam dissent from this view.

16.17 As regards the demand of banks that higher allocations to published reserves should be allowable as prior charges, we consider that with the discretion vested in the Reserve Bank to prescribe such transfers as are considered necessary, and with these transfers being admissible as an allowable deduction, no further change in the law is required.

#### Foreign Banking Companies

16.18 The All-India National and Grindlays Bank Employees Federation has advanced two suggestions for modification of the formula in its application to banks, in relation to foreign banks in particular. One suggestion is that head office expenses should not be allowed to foreign banks: this involves deletion of item 6(e) of the First Schedule of the Payment of Bonus Act, 1965, including foot-note 3. A second suggestion is that in the case of foreign banks, capital and reserves should be computed on the basis of the actual capital and reserves in India.

16.19 We find that the above issues were gone into by Justice Shri K. T. Desai in his award published in the Gazette of India dated 20th August, 1962 after taking into account the views of the representatives of workers as well as management. Regarding the first suggestion, the calculation of head office expenses and their deduction is not peculiar to banks but applies equally to all foreign companies. We find no reason to suggest a different practice for banks than for other companies, and in particular to suggest diverging from the basis of computation of head office expenses adopted for foreign companies, viz., in the proportion of India Gross Profit (adjusted) to total Gross Profit. A larger issue from the country's point of view is whether the share of head office expenses allocated to the Indian business, whether in banking or other companies, is in fact allowable. If it is allowable and is, therefore, remittable in terms of the criteria adopted and accepted, it should also be allowable as a deduction for the bonus computation, subject to the ceiling laid down in the Act, viz., in the proportion of India Gross Profit (adjusted) to Total World Gross Profit.

16.20 As regards the second suggestion, again, we find that the concept of notional capital and notional reserves in India, in the proportion of working funds in India to total working funds, underlying the computation of available surplus for foreign banks, is in accord with widely prevalent practice in regard to location of capital and reserves in international companies at the headquarters offices. Wherever located, in terms of accepted international business practice, capital and reserves are supposed to underpin and protect the operations of the international company against the market and other hazards and meet any losses that might arise. Therefore, we do not consider that a change in the existing basis of computation of the deduction on this account for purposes of calculation of bonus, will be justified.

\*Report of the Bonus Commission, P 104, paragraph 4. 12.

## CHAPTER XVII

### INSURANCE

#### A. Life Insurance

In terms of section 32 of the Payment of Bonus Act, employees employed by the Life Insurance Corporation of India are excluded from the purview of the Act and therefore are not eligible for the benefit of bonus under it. The exclusion was made presumably having regard to the very special character of insurance. Insurance is also now the business of a single institution each for life insurance and general insurance, general insurance having also recently been brought within purview of a single institution consequent upon its nationalisation. No reference was made in the Report of the Bonus Commission to life insurance as such, though exemption of general insurance companies from the scope of the proposed legislation was recommended.

#### Views of Employees

17.2 The All India LIC Employees Federation has, in its memorandum submitted to the Committee, questioned the exclusion of the Life Insurance Corporation of India from the purview of the Bonus Act as lacking in rationale. The Federation states as follows. "First of all, bonus has been a customary payment in this industry for over 25 years. ....

..... Moreover, it may be that the Life Insurance Corporation of India does not make profits in the sense that there is no purchase or sale of goods as is carried out by other trading institutions. But nevertheless it makes profits on its investments and distributes these profits between the policyholders and the Government of India. What is known in insurance parlance as Valuation Surplus is nothing but the net profit earned by the Life Insurance Corporation of India after setting aside from the gross profits the income-tax, the amounts necessary to meet the future liabilities etc.". The Federation further suggests that the profit-sharing bonus for employees of Life Insurance Corporation should be over and above the customary one.

#### Views of the employer

17.3 The Life Insurance Corporation of India, in its reply to the communications from the Committee asking the Corporation for its views regarding continuance of the exclusion of its employees from the scope of the Bonus Act, has furnished information as required regarding the actual rates of bonus being paid by the Corporation and dealt with the question of policy referred to it. For some years, until 1971, the quantum of bonus paid to class III & IV employees of the Corporation was equal to 1½ months' basic pay (including special pay), and the

bonus was paid in terms of the settlement with the staff. Since 1971, in terms of the settlement dated 26th June, 1972, the quantum of bonus has been raised to 10 per cent of annual earning (basic pay, special pay and D.A.); bonus is now payable on a financial year basis. For class I & II employees, bonus was paid until 1970-71 (financial year) at 1½ months' basic pay subject to a maximum of Rs. 1,200. From 1971-72 as a sequel to the increase in bonus granted to class III & IV employees, the rate of bonus for class I & II officers has been increased to 2 months' basic pay subject to ceiling of Rs. 1,600.

17.4 On the question of application of the Payment of Bonus Act to life insurance, the Corporation states as follows. "The Payment of Bonus Act, 1965, provides for allocation of available surplus for the purpose of distribution of bonus among the employees. This allocable surplus is based on the gross profits for the relevant year. So far as the life insurance business is concerned, it does not earn profits in the sense in which the term is understood in business parlance. There is no profit and loss account in life insurance industry as such. In view of this peculiar position of the life insurance industry, it will be necessary to clearly define the various terms, such as "available surplus", "gross profit", etc., which find place in the Bonus Act to meet the peculiarities of the life insurance business if at all it is decided to bring this industry within the fold of the Bonus Act. For reasons mentioned below, this will be a difficult exercise if not an impossible one. A decision to expand the scope of the Bonus Act to cover the Life Insurance Corporation can be taken only after the difficulties set out hereinafter are carefully considered and solutions found".

17.5 The memorandum submitted by the Life Insurance Corporation continues its explanation of the very special nature of the Corporation's business thus. "Life Insurance business has several features which sharply distinguish it, by its nature, from all other business and industrial activities. Essentially, its contracts are long-term contracts. It collects small sums of money (the premiums) from its clients and by way of fulfilment of its obligations towards them, pays out larger sums on the occurrence of the various contingencies insured under its contracts or vice versa i.e. collects lump sum premiums and then pays out the assured benefits over a long term of years, in instalments. Life Insurance business takes over savings of the community and by wise and frugal management and sound investment, utilises them, tends to them and finally returns them to the community for its benefits in various directions.

Liquid funds continually flow into its coffers and have to be carefully nursed. The business has a highly fiduciary character and this had made it unavoidable that legislation should take a special controlling interest in its activities. Legislation therefore provides several statutory restraints which are peculiar only to Life Insurance and no other industrial or economic activity of the community. In recognition of the fiduciary character of the Life Insurance business, legislation makes it compulsory to treat it as a distinct identity and to keep its operations quite separate from all other business, to wit, section 10 of the Insurance Act, 1938. To ensure that the insured policy holders get proper returns, further provisions are incorporated in the legislation in regard to investment. Thus, there are provisions such as (i) Section 27 of the said Insurance Act whereby safety of and fair returns on the business are sought to be protected, (ii) Section 40 of the said Act read with Rule 17 of the Insurance Rules, 1939, whereby the management expenses are controlled (which include bonuses to employees in whatever form they be paid), preventing wasteful management expenses, and (iii) Section 31(A) of the Insurance Act whereunder the managements are prohibited from paying remuneration by way of a share in the valuation surplus—reserving such surplus mainly for the benefit of the policyholders. Last but not the least, section 28 of the Life Insurance Act, 1956, which provides that not less than 95 per cent of such surplus shall be allocated to or reserved for the policyholders of the Corporation and the remainder may be utilised for such purposes and in such manner as the Central Government may determine".

17.6 Furthermore, the Corporation sets out in some detail the distinction between the valuation surplus and profits as follows. "The surplus disclosed as a result of these valuations, however, are not simple direct profits. As explained above, life insurance business consists of long term contracts under which premiums are payable in advance until the happening of the event insured against. The premiums are calculated on the basis of the three factors (i) mortality, (ii) interest, and (iii) expenses. Provision is also made, in calculating the premiums for with-profit policies, for bonus loading. Such of the policyholders as have taken out with-profit policies pay somewhat larger premiums than those who take out without profit policies. For example, annual premium per thousand sum assured for a with-profit endowment plan for age 35 and term 20 years is Rs. 54.37 whereas for a similar endowment policy without profit plan, the annual premium is only Rs. 46.06. The difference of Rs. 8.31 is the loading charged for the right of the with-profit policyholder to participate in the surplus which may be disclosed as a result of future valuations".

17.7 The Corporation's reply goes on to explain how the surplus disclosed by the periodical valuation is generated, over and above the bonus loading in the with-profit premiums, by the favourable experience as to mortality, rate of interest and expenses as compared to provisions therefor in the premiums. It

then hoists another cautionary signal. "The release of the valuation surplus is also a function of the basis of valuation adopted for determining the policy liabilities. The valuing actuary has not only to take note of the past experience in regard to such factors as mortality, rate of interest and the expenses, but also has necessarily to concentrate his attention on future trends in respect of these factors having regard to the long term duration of the policy contracts and the desirability of an orderly and adequate flow of bonuses over the term. Furthermore, since it is not possible for the valuing actuary to forecast precisely the future experience in regard to the aforesaid three factors, he has to move cautiously and keep adequate margins in the valuation basis to provide for any adverse experience in respect of any or all the three factors".

17.8 The Corporation's reply concludes thus: "It is clear from the above that the surplus disclosed as a result of periodical valuations cannot be taken as profits nor can it be taken as the amount out of which the bonus can be paid to the employees in accordance with the method laid down under the Payment of Bonus Act". It is added by way of information that beyond the contribution of capital which amounts to Rs. 4 crores in respect of the life business, Government has under section 37 of the Life Insurance Corporation Act, 1956 provided unlimited guarantee for sums assured by the Corporation.

#### Views of the Committee

17.9 In devising the Committee's approach to the question of extension of the Bonus Act to cover employees of the Life Insurance Corporation of India, the following are some of the relevant considerations which should be taken into account:

- (a) Employees of the Life Insurance Corporation of India (and before that of the private insurance companies) have been and are being paid "bonus", though the Payment of Bonus Act has not been applicable to the Corporation. While bonus for life insurance employees is, therefore, a fact it has been, and remains, a special dispensation. Having been already paid before the Payment of Bonus Act was passed, it has not been described as *ex-gratia* payment, and it has not been brought under the umbrella of the legislation on the subject.
- (b) The prohibition of payment of bonuses as part of control of management expenses or as a share in the valuation surplus notwithstanding, bonus has been paid to employees, having been charged, like wages and salaries, to expenses. There is specific provision for such bonus payment under proviso (vii) to section 31A(1)(c), as follows: "the payment of bonus in any year on a uniform basis to all salaried employees or any class of them

by way of additional remuneration". Thus bonus in life insurance which has been in vogue for a long time is, unlike bonus in industrial and commercial practice, not profit-sharing, but an annual supplement to wages.

- (c) As the Corporation's memorandum brings out, there are substantial and real difficulties, inherent in the character of insurance, in substituting the ordinary profit-sharing bonus for the annual additive to wage/salary that life insurance bonus is. The Corporation's memorandum has offered no suggestions about how to overcome these difficulties. It has implied that the extensive amendments required for the purpose in various legislative measures involving important changes in the protective frame of insurance for the benefit of the insured, pose insurmountable hurdles in the way of approximation of bonus in life insurance with bonuses in business in general.

17.10 It is in the above context that the majority of the Committee has to consider the following specific suggestion of the All India LIC Employees Federation : "It may be stated here that the Life Insurance premium charged for with-profits policies has a component of bonus and, strictly speaking, the Life Insurance Corporation of India is morally bound to return only that portion to the policyholder in the form of bonus. However, in addition to this guaranteed minimum bonus, the policyholders get direct share in the net profits of the Life Insurance Corporation of India, may, almost the entire profits—95 per cent of the valuation surplus—are taken away by them. This is very iniquitous and we emphatically submit that there should be an equitable distribution of the net profits of the Life Insurance Corporation of India between the employees and the policyholders".

17.11 In appraising the above suggestion, we have to bear in view some pertinent points. In the first place, the average policyholder is a small man, and in catering to his needs and staking claim to a share of his savings, the Life Insurance Corporation has to offer him a return which protects his savings both against the falling value of money (*viz., inflation*) and its rising cost (in terms of rate of interest). Secondly, though life insurance is a monopoly, it has to operate in a buyer's market; in the eyes of the common man life insurance is an optional need rather than a proven necessity and there is, therefore, every reason for minimising its cost with a view to maximising its spread. Thirdly, as profit in the ordinary sense cannot be readily identified in this sector, it is a question whether the profit-sharing bonus as such can appropriately apply to life insurance. The brand of bonus which has gained currency in the life insurance sector, *viz.*, an annual supplement to wages charged to expenses rather than an appropriation of profits, has its own long history behind it.

17.12 The memorandum of the Employees Federation makes the issue turn on an equitable distribution of the net profits of the Life Insurance Corporation, the suggestion being that 95 per cent of the valuation surplus is too high a share for the policyholders. However, this sharing of the valuation surplus has yielded for the policy holder an endowment assurance rate of bonus in successive valuations as follows :

*Rate of Bonus for thousand Sum Assured*

Year	Endowment Assurance Policies	Whole Life Policies
1957 . . . . .	12.80	16.00
1959 . . . . .	12.80	16.00
1961 . . . . .	12.80	16.00
1963 . . . . .	14.00	17.50
1965 . . . . .	16.00	20.00
1967 . . . . .	16.00	20.00
1969 . . . . .	17.60	22.00
1971 . . . . .	17.60	22.00

Taking into account both the continued fall in the value of money and its rising cost, neither the improvement in the rates of endowment assurance bonus nor its absolute level seems excessive.

17.13 The basic issue, moreover, is whether the valuation surplus, which arises largely from an improvement in the *actual in relation to anticipated* experience with regard to mortality, rate of interest and expenses, can be equated with profit as such, and whether the policyholder who has entrusted his funds to the care of the Corporation may not legitimately claim that the benefit of the initial cautious estimation of the risk death (which is over-pitched) or expenses (which are overstated) or the rate of interest (which is under-estimated) (all as a precaution), should be passed back to him when the estimates in these respects have been firmed up. On the whole the Committee is inclined to consider that the valuation surplus in life assurance cannot be equated with the profits of ordinary business.

17.14 We come then to the question of the appropriate form, if any, in which bonus as in the general bonus law may be extended by suitable amendment of the Payment of Bonus Act or otherwise to employees of the Life Insurance Corporation of India. The technical complexities of the concept of profit in ordinary business and that of surplus arising out of revisions of estimates in life insurance are such that it seems difficult to apply the terminology of the bonus law as it is to the categories of life insurance.

There may, however, be a way of recognising the broad framework of the bonus legislation and bringing insurance within its purview, through a scheme such as follows :

(a) Minimum bonus shall apply to life insurance, (b) the maximum bonus shall also apply to life insurance, and (c) within the minimum and maximum limits, bonus shall be regulated either by (i) collective bargaining as it is at present or by (ii) collective bargaining supplemented by a productivity scheme under which bonus to employees within a zone, division etc. is regulated in relation to production/productivity of business within the concerned area; the details of such scheme related to production/productivity may be worked out. Until such a scheme for relating bonus to production/productivity has been approved, bonus may be regulated within the framework of (a), (b) and (c) (i) above. Collective bargaining has an important role to play in regulation of labour-management relations and has its most effective scope where management and labour alike are enlightened and appreciate the special features and problems of the industry. This applies certainly to life insurance, the special features of which have been referred to in the foregoing paragraphs.

17.15 While the Committee has elsewhere considered the question of relating bonus or increase in bonuses to production/productivity and come to the conclusion that it is not practicable to devise a generalised scheme of *countrywide* application for this purpose, the fact remains that productivity continues to be a paramount objective of economic policy, and wherever there is a specific possibility of relating bonus to productivity, it should be explored. It happens that Life Insurance is both a single industry and organisationally a single corporation. It is, therefore, ideally placed to translate into practical shape, even if by tentative and experimental steps, the terms of reference (iv) and (v) of the Committee. A workable scheme of bonus linked to production/productivity could conceivably be the means of improving, even if to a limited extent, the over-all allocation for bonus, to employees as and when such a scheme can be devised in consultation with employees. In devising such a scheme, an ordinary norm of expansion of business, both in value terms and in terms of coverage or number of policies issued etc. may be developed, and performance may be measured in relation to such norms.

17.16 On a first view, there might appear to be a certain marginal advantage in favour of adopting the above approach of approximating the structure of bonus in life insurance to that of bonus generally for private sector industry and banking, though the concept of bonus in the two cases is different. The above approach would not apply the bonus formula based on profit-sharing to insurance, but would only apply the minimum and maximum rates under the general bonus law to life insurance. On the other hand, however, in various respects, life insurance having a bonus older than that under the Act and based on a different concept (*viz.*, annual supplement to wages) has its own conventions. Several of the provisions of the Act, in

particular those relating to computation of gross profits, available surplus, 'set on' and 'set off' of allocable surplus, 'bonus holiday' etc. etc. would be hardly applicable as they are. Even the application of minimum and maximum bonus under the Act would seem, on closer consideration, to be of academic value as, in any case, the minimum and maximum of the general bonus legislation would remain a factor in the background of collective bargaining in the sector. On a balance of considerations, therefore, the majority of the Committee recommends continuance of exclusion of life insurance from the purview of the Act. It is suggested, however, that the proposal made above for development of a link between bonus and production/productivity in the life insurance sector should receive expert scrutiny with a view to adopting the substance of the proposal.

17.17 Sarvashri G. Ramanujam and Mahesh Desai dissent from the continued exclusion from the purview of the Bonus Act proposed above for life insurance. They would bring life insurance within the scope of the Act, even if very few of its provisions e.g. minimum, maximum etc. might be directly applicable, as such inclusion could be made workable with the help of Section 34(3) to support collective bargaining within the broad framework of the Act.

## B. General Insurance

17.18 We have been handicapped in dealing with the question of bonus in relation to general insurance by the absence of response from the General Insurance Corporation to successive communications, written and oral, requesting advice in regard to the subject, or any comments on the employees' demand for extension of the Bonus Act to general insurance. On the 2nd July, 1972, the Personnel Officer of the Corporation, handed in to the Committee's Secretary a note which contained some of the information that had been requested. The information is a useful starting point for considering the question of bonus in the general insurance industry and is set out below.

### Background of exclusion of General Insurance from Bonus Act

17.19 The management of the General Insurance Industry comprising 106 companies was assumed by the Government from May 13, 1971. The ownership was taken over from January 1, 1973 thereby completing the process of nationalisation. The Central Government who were till then concerned only with exercising the control over bonus under proviso (vii) to section 31A(1) of the Insurance Act were, during 1971, called upon to perform for the first time, the function of direct managers. This, it is stated in the note from the Corporation, led to an overall review of the position in the industry and for the first time, in respect of bonus for the accounting year 1970 paid during 1971, the outlines of a common policy began to emerge. The scope for harmonisation was limited because individual Boards of Management continued and so did the shareholders; the Profit and Loss Accounts were also separately

drawn up for the companies. However, in approving the bonus payable in individual companies, the following basis was uniformly followed during 1971 in respect of bonus payable for the year 1970:

- (a) where the profits of the Company were higher in 1970 than 1969, the bonus was also increased over 1969 in the ratio of such increase;
- (b) four months' basic pay was the ceiling on bonus;
- (c) where the profits had gone down, the previous year's rate was repeated;
- (d) even where companies did not make profits, 3/4th of one month's basic pay was given as *ex gratia* payment only to clerical and sub-staff;
- (e) the existing categorywise position was preserved in each company i.e. no new categories were introduced to bonus nor was any attempt made to bring about uniformity between Head Office staff and branch staff.

For bonus payable in 1972 on the basis of 1971 accounts, the above policy features were continued, with the modification that in lieu of four months' basic pay as in (b) above, 20 per cent of gross pay was the ceiling; however, where 20 per cent of gross pay was less than the rate actually drawn by an employee in the previous year, the previous year's rate was protected; also, where the basic pay exceeded Rs. 2,000 per month, it was limited to Rs. 2,000 per month for the purpose of bonus.

17.20 At present, in terms of coverage, the position is broadly as follows :

- (a) All employees in what could be termed Class III & IV (i.e. clerical and sub-staff) are getting either bonus or *ex gratia* payment;
- (b) out of about 3,000 officers on the administrative side about 85 per cent are getting bonus;
- (c) the bonus is being related to the profits;
- (d) out of roughly 15,000 workers, it is estimated that 8,600 are already getting 20 per cent gross or a higher quantum as bonus;
- (e) the maximum bonus now payable is Rs. 8,000 whereas it would be Rs. 1,800 under the Payment of Bonus Act;
- (f) officers getting over Rs. 1,600 who would be ineligible under the Payment of Bonus Act do get bonus.

17.21 Against the above facts on bonus in the general insurance industry we may set out briefly the background of the situation of the industry in relation to the general bonus legislation. After referring to the prohibition of employment in terms of Section 31A(1)(c) of the Insurance Act of any person any part of whose remuneration consists of commission or bonus in respect of general insurance business, the Bonus Commission quoted proviso (vii) which

permits "the payment of bonus in any year on a uniform basis to all salaried employees or any class of them" such as "in the opinion of the Central Government, is reasonable" having regard to the circumstance of the case. The Commission also referred to the limits on the expenses of management under Section 40C(1) and explained that the general import of these provisions was that the Central Government had to consider the specific circumstances and approve the bonus as being reasonable in each case. In view of this the Bonus Commission recommended the exemption of insurance from the purview of the bonus statute and the Bonus Act provided accordingly under Section 32(i).

17.22 A consequence of the specific provisions requiring Governmental approval of bonus in each case was that the employees could not raise an industrial dispute to claim bonus. The matter went up to the Supreme Court and the Supreme Court in the case of Hercules Insurance Co. Ltd. held that a claim for bonus in the Insurance Industry could not be adjudicated upon.

17.23 In 1969, by the Insurance (Amendment) Act (Act 62 of 1968), Section 31A of the Insurance Act was amended so as to remove the requirement regarding approval of bonus in individual companies by the Controller of Insurance. Section 32 of the Payment of Bonus Act which lists the classes of employees to whom the Act does not apply was also amended so as to omit the words "employees employed by any insurer carrying on general insurance business" "with effect from the date to be notified". No notification to this effect was, however, issued. The amendment of the Insurance Act for the purpose of inclusion of the general insurance industry within purview of the Bonus Act has thus remained infructuous.

#### Views of Employees

17.24 The General Insurance Employees All India Association has represented that necessary amendments be made to the Bonus Act so as to bring General Insurance within its purview. The Association states: "The Insurance Act was primarily meant for Life Insurance business and Section 31A was put on the Statute book to protect policyholders' interest and to prevent excessive payment of amounts in the form of bonus. In the case of General Insurance business the interest of policyholders is fully safeguarded by compulsory setting apart of reserves for unexpired risks which reserves are commonly known as statutory Reserves. In the General Insurance Industry the risk is only for one year and the liability to pay claim is contingent. The entire amount of profit is therefore available for distribution as in any other industry. The dividend to the shareholder was also being paid out of this profit."

17.25 In their detailed replies to the questionnaire of the Committee, the Employees Association has urged that there should be no maximum rate of bonus fixed as a percentage of total yearly emoluments. However, no individual employee should be paid more than Rs. 5,000 as bonus in any year. The Employees Association itself suggested an adaptation of the existing bonus formula, which apart from other features, would provide for 80 per cent of the

available surplus as allocable to employees. In conclusion: "The Association therefore submits that so far as the General Insurance business is concerned, the common formula that may be evolved may not work well and be found completely unsuitable. As Banking industry has been treated separately, so also the General Insurance business would require a separate formula for calculating available surplus and allocable surplus for distribution among the employees as bonus."

#### Views of the Committee

17.26 It would appear from the foregoing that the kind of problems that arise in application of profit-sharing bonus to life insurance, do not arise in respect of General Insurance. General Insurance has a profit and loss account base on annual working of the companies or units of the General Insurance Corporation, General Insurance in its main departments viz., marine, fire, accident etc., is an important ancillary of ordinary business where bonus prevails. It was presumably in recognition of these features that the amendment of 1969 was carried out as a preliminary to extension of the Bonus Act to this sector. There should, therefore, be no difficulty in principle about extending the coverage of bonus so as to include General Insurance.

17.27 However, the problem of considering deviations from the general formula in recognition of special features of the industry e.g., allocations to reserves, the exceptionally high maximum bonus in the industry that already, etc., remains. We can only surmise that the need for some adaptations in the general formula with a view to its application to general insurance might have been one of the reasons for omission to carry through the extension of scope of the Bonus Act to general insurance on which the Government had themselves embarked. Not having had the benefit of discussion with any official in the Government or the Corporation on behalf of the industry, in the absence of response to the Committee's communications, we were unable to confirm our surmise. It appears, for one thing, that the officers' position in respect of bonus is likely to be adversely affected by inclusion of the industry within the purview of the Act, which has a very much lower ceiling

on the total amount of bonus than is being paid in the industry. Even the average rate of bonus in General Insurance in some cases might find any ceiling in terms of a general bonus formula uncomfortably low. Besides, the process of harmonisation of the terms and conditions of employment in the 100 odd companies, being regrouped into four units, would presumably require some time before a clear enough picture of a reorganised industry emerges to enable application of a general formula for bonus to the industry to be considered in all its aspects.

17.28 Taking all the circumstances into account the Chairman and Dr. Punekar recommend that it may be agreed in principle that the Payment of Bonus Act would be extended in due course to cover general insurance and a special working group should examine and work out any modifications in its general scheme which may be appropriate and defensible in relation to the industry. The two members are not in favour of separate and special maxima for individual industries and sectors of the economy or for a dispensation such as the employees within the general insurance industry have asked for, which confers on them the best of both worlds, viz., the advantages of a statutory cover of bonus under the Act as well as of higher than the general ceilings for the employees of the industry, under the same Act. They recognise, however, that bonus in this industry is much older than under the Payment of Bonus Act, and there may be aspects of the question of extension of the Act to general insurance which should be taken into account but which they have not had the opportunity, in the absence of necessary cooperation from the industry, to look into.

17.29 Sarvashri Bhat, Billimoria and Harish Mahindra are opposed to any extension of the coverage of the Act to sectors of industry or establishments at present excluded from its scope. Sarvashri Mahesh Desai and Ramanujam would extend the Payment of Bonus Act to general insurance straightway and suggest that there is no need of any special consideration of the problem as Section 34(3) which they want to be retained will take care of any problems peculiar to general insurance.

## CHAPTER XVIII

### RESERVE BANK OF INDIA : SECTION 32(VIII)

The terms of reference of the Committee require us to review the operation of the Payment of Bonus Act, 1965 and to suggest suitable modifications to the scheme outlined therein. Section 32(viii) of the Payment of Bonus Act lists 'employees employed by the Reserve Bank of India' as a category to which the Act does not apply. The All India Reserve Bank Employees' Association has strongly represented against this exclusion of the employees of the Reserve Bank from the purview of the Bonus Act.

#### Views of Employees

18.2 The grounds on which the Employees' Association has urged inclusion of the Reserve Bank within the scope of the Act are as follows:

- (i) The Bank was originally constituted as a shareholders' bank in 1935. Later, in 1948, the share capital was taken over by the Government of India under "Transfer to Public Ownership Act, 1948" and the Bank is now a body corporate under the public sector. This has not, however, basically altered the employer-employee regulations in the institution *vis-a-vis* the provisions of the Industrial Disputes Legislation.
- (ii) Employees of other public sector institutions, e.g., Life Insurance Corporation of India and other public sector undertakings which are not covered by the Bonus Act actually receive bonus or its equivalent, e.g., *ex gratia* payment, irrespective of whether, in terms of section 20 of the Bonus Act, they sell any goods produced or manufactured or render any services in competition with an establishment in the private sector.
- (iii) The employees in the Banking Industry, whether in public sector or private sector, are entitled to and get regular bonus. The Reserve Bank of India being the apex banking institution of the country earning a large profit, its exclusion from the definition of "banking company" under Section 2, sub-section (8) of the Bonus Act, is not justified.
- (iv) A former judge of the Supreme Court, Shri T.L.V. Aiyer established that Reserve Bank too earned large commercial profits every year from its banking activities as distinct from its sovereign function of currency circulation. The Reserve Bank acknowledged that its commercial profits for the year 1965 and 1966 stood at Rs. 5.76 crores and Rs. 6 crores respectively. The Bank estimated that its commercial profits constituted

12 to 13 per cent of the net available surplus for a year. In terms of this estimate, the Bank's commercial profits in later years would have been much higher than in earlier years as well as much higher than in other banks, e.g., State Bank of India and other commercial banks.

#### Views of the Employer

18.3 The Reserve Bank of India in its reply to the Committee's questionnaire and to the latter addressed to it specifically on the issue of the Bank's exclusion under Section 32(viii) has recommended the continuance of the present exclusion of the Bank from the scope of the Act. The Bank's position on the matter may be summarised as follows:

- (i) The Bank's exemption logically follows from Section 20 of the Payment of Bonus Act, which extends the provisions of that Act to public sector establishments only if they sell any goods produced or manufactured by them or render any services, in competition with an establishment in the private sector, and the income from such sale of goods or services or both is not less than 20 per cent of the gross income of the establishment in public sector for that year. In terms of Section 20 of the Payment of Bonus Act, the functions of the Reserve Bank are not competitive.
- (ii) As the Central Bank of the country, the Reserve Bank discharges certain essential functions characteristic of central banks, such as the issue of currency, the management of the country's external reserves, the regulation of bank credit and acting as bankers' bank and banker to the Governments. The special position of central banks has been recognised in all countries where such banks have been established. In the U.K., the profits of the note issue are not even brought to account by the Central Bank; in the U.S.A., the Federal Reserve System is excluded from the definition of 'employer' under the Labour Management Relations Act, 1947; in France social security measures for the employees of the Bank of France are separately considered and approved by Government; in West Germany, the employees of the Deutsche Bundes bank are treated like federal employees. Having regard to the position in these central banks the Reserve Bank's memorandum observes as follows: "The Reserve Bank of India, as a central

bank, will have to be dealt with, in the light of the provisions made in the case of other central banks rather than in the light of the law relating to industrial and commercial undertakings in the country."

- (iii) (a) Although the provisions of the relevant laws establishing central banks vary from country to country, it is well-settled and admitted that their profits are only incidental to the exercise of their sovereign or special functions and cannot be regarded as being 'commercial' in any sense of this term. In particular, the Reserve Bank's profits are not earned as a result of commercial operations, but, on the other hand, are incidental to the implementation of its policy objectives designed to serve the public interest. Specifically, the main source of the Bank's income, which is attributable to the rupee assets of the Issue Department, accrues to it as a result of the development in the economy and not because the bank is interested in increasing or maximising this income.
- (b) In regard to an attempt to arrive at the commercial profits of the Bank, the Bank has observed as follows: "In the light of the experience during the last few years and in partial modifications of its submissions before the late Shri T. L. Venkatrama Aiyer in 1967, the Bank now considers that any such attempt can only be based on certain arbitrary assumptions, for which there may be no adequate justification". Since the earlier calculation of commercial profits had been based on a part of the income of the Banking Department of the Bank, the Bank has pointed out in the representation as follows: "It could conceivably be argued with a great deal of force that the income of the Banking Department of the Bank also does not arise as a result of commercial operations or operations over which the Bank has any degree of control. A commercial bank distributes its assets in such a way as to maximise its profits while ensuring an appropriate degree of liquidity in the pattern of its assets. A central bank distributes its assets in such a way as to ensure the requisite volume, distribution and cost of credit in the economy irrespective of the size of its earnings on these assets."
- (c) After a detailed analysis of the various sources of the Bank's income, the Bank's memorandum concludes as follows : "Whether one considers the Reserve Bank's profits in its Issue or its Banking Department, the conclusion, which thus emerges is that the profits are incidental to the exercise of sovereign rights in regard to the note issue or special powers conferred on the Reserve Bank of India in regard to the higher direction of economic and monetary policy".

(iv) Additionally, in regard to the suggestion to base bonus, as an element of the remuneration of its staff, on commercial profit, the Bank observes as follows : "It will be inconvenient and vexatious, resulting in a great deal of labour which will be entirely disproportionate to the results, if the Bank were required to ascertain the extent of its 'commercial' profit, every year, as in the nature of the circumstances this profit is not ascertainable". "Therefore, it seems to be quite undesirable that as a result of an attempt to ascertain the commercial profit, which in the nature of the circumstances is not ascertainable, or as a result of wide fluctuations in the profits as nationally ascertained, the Bank should be exposed to the risk of industrial disputes to the detriment of the larger public interest."

(v) While the Bank does not favour the payment of a bonus as such to its employees, based on any attempt to reckon its commercial profits from year to year, the Bank has stated that it has taken the emoluments, including bonus paid to the employees, particularly workmen, of other banks, into account while considering or revising its pay structure from time to time.

#### **Practices of other Central Banks Regarding Bonus to Employees**

18.4 Reference has been made in the Reserve Bank's reply to the letter addressed to it on the question of continuance of its exclusion from the purview of the Bonus Act, to the practice of bonus in foreign central banks. Having regard to this and to the Bank's observation about the appropriateness of dealing with the question about of bonus for employees in the Reserve Bank "in the light of the provisions made in the case of other central banks rather than in the light of the law relating to industrial and commercial undertakings in the country", it may be useful to set out the experience in this regard of central banks abroad, as a preliminary to our own consideration of the question.

18.5 It appears that there is no system of bonus payments to the staff of the Central banks in North America, including the U.S.A. and Canada, in the United Kingdom or other British Commonwealth countries or in Schandinavian countries, or in countries like Ireland and Greece where the Anglo-Saxon tradition in regard to this sector prevails. It is a fact that in the matter of central banking practices, including organisational aspects, we in this country have patterned our institutions more following the example of this group of countries.

18.6 In various other countries, however, different variants of the bonus method are to be found acting as complement of, or supplement to, wages and salaries of employees, annually or at other intervals, over and above the regular monthly wage/salary. Such information as could be gathered on the practices in some of these countries in response to a request

by the Chairman of the Committee addressed to Chairmen/Governors of foreign central banks, is summarised in the following paragraphs.

18.7 The personnel of the Bank of France is not admitted to the benefit of the regulation of the 17th August 1967 on 'participation of workers in the profits of the expansion of the enterprise', in view of the very particular nature of the profits realised by a Central Bank of issue. But the Bank's personnel receive during the year, on certain due dates (period of vacation, time of reopening of schools, end of the year) allowances which have the character of a complement of wages and which represent on the whole four supplementary months of salary.

18.8 In the Bank of Belgium, the annual bonus given to individual employees is equal to 10 per cent of the salary or wages actually collected during the year ended, which is of the same order of size as the bonus given to the personnel of the big banking establishments and the public institutions of credit. The bonus is reduced by 1/250th per day of absence, whatever be the reason of absence; the reduction is, however, limited to 20 per cent of the amount of the bonus. The balance not allotted by application of this provision is distributed among the members of the personnel in proportion to their time of presence: assiduity to work is thus rewarded. The modalities of allotment of the bonus of 10 per cent have been fixed after joint consultations with a trade union delegation. The conditions of the granting of bonus are the same for all the members of the personnel, whatever be their grade or function.

18.9 The Netherlands Bank pays an annual bonus to its employees. The amount is fixed each year by the Board in consultation with workers' representatives. It is not dependent upon profits. It is expressed as a percentage of individual wages/salary, and has in the last few years been some 10 per cent.

18.10 The Bank of Italy, by autonomous regulation, annually allocates in favour of its employees an incentive bonus subdivided into two parts. The first part--equal to about ordinary half-monthly payment—is paid to the whole personnel in service, while the second--equal to about one-third of an ordinary monthly payment—is allocated to the particularly deserving among lower grade workers who fulfil certain requirements in regard to standard and quality of service. Besides, the Bank rewards the Heads of the Departments and the personnel of higher grade with an annual gratification, the amount of which—on an average, of two ordinary monthly payments—is not correlated with the economic result of the Bank's working during the year but depends upon the grade, seniority etc. of the class of employees.

18.11 The amount of bonus paid to its employees by the Bank of Japan is calculated on a basis of the standard level of other enterprises, or more precisely, the bonus rate prevailing among the city banks. Bonus payments are made twice a year, in May and November. The bonus paid by the Bank of Japan is in the customary bonus category rather than profits

distribution or performance reward. The bonus rate varies slightly each time, but the recent annual rate of bonus is equal to about six months' salary. The general scheme of remuneration in Japan, it may be recalled, is heavily weighted by bonuses.

18.12 The grant of bonus in the Central Bank of the Philippines is to be authorised by the Monetary Board of the Bank, and at times has to be cleared with the office of the President of the Republic. During the past years, the Bank has given two kinds of bonuses, *viz.*, mid-year bonus and Christmas bonus, usually in May and early December respectively. The computation thereof is normally based on the monthly basic salary plus equity pay (or cost of living allowance) of the employees. In 1971, the Monetary Board authorised the grant of a mid-year bonus equivalent to 1½ months' salary inclusive of equity pay and a year-end or Christmas bonus of 2½ months also inclusive of equity pay to the officials and employees of the Bank. In 1972, the Board similarly granted a mid-year bonus of 1½ months (salary plus equity pay) but the Christmas bonus authorised in December, 1972 was equivalent to only one month salary and equity pay. In the absence of a legislative basis, there is no assurance about continuity of bonus for the future.

18.13 Regulations of payment of bonus to employees of the State Bank of the USSR, which combines some commercial and central banking functions, were introduced to increase material incentive in fulfilment and over fulfilment of cash plan, in intensification of Rouble Control of financial-economic activity of enterprises and organisations and in securing repayment of credits. Payment of bonus to employees of the State Bank of the USSR according to the said regulations is effected on the basis of the results of work for every quarter of a year to the extent of 20 per cent of monthly salary for fulfilment of plan, with very modest additions for over-fulfilment of monthly plans. The size of bonus to the employees of the State Bank of the USSR is fixed in consideration of the increase of money circulation turnover and cash plan, larger size of bonus being fixed for those offices of the State Bank which obtain the best issue results and have the higher ratio of credits repaid in due time and are above the average level in republic, region or town. Payment of bonus to all managers, specialists and office workers is effected, as a rule, at the same rate. Managers of the State Bank offices, subject to agreeing with a trade union committee and depending on the quality of work and a worker's contribution to the work, may increase or decrease the size of his bonus, upto 25 per cent. Thus, when the plan indices stipulated by the Regulations for the whole enterprise are fulfilled or over-fulfilled *all* employees who did not commit serious oversights in the work receive a premium in excess to salary. As for employees who made mistakes listed by the Management of the State Bank of the USSR as agreed upon with the Trade Union Central Committee, their bonus is either reduced or forfeited.

18.14 The State Bank of Czechoslovakia has a system of bonus for remunerating, at a modest rate, the annual results of work of the employees.

18.15 The above survey of the prevalent practices regarding payment of bonus to employees of central banks in other countries brings out that the practice of bonus payment does not obtain in many central banks, especially those with the Anglo-Saxon tradition, but in several central banks such a practice does exist. However, in no central bank where the practice exists is there any relationship between the profits of the central bank and the bonus paid to the staff; the distribution of bonus among the staff which is determined on different considerations from one bank to another is sometimes varied with reference to attendance, effort, performance etc.

#### **Views of the Committee Regarding Bonus to R.B.I. Employees**

18.16 We may now consider the question to bonus for employees of the Reserve Bank of India. Some general considerations in this regard which are *prima facie* favourable to the claim of the employees may first be mentioned. In the first place, the review of the position in central banks abroad yields no unequivocal guidance from foreign experience in this sector. In particular, the available foreign experience does not give a clear negative lead. However, the diversity of foreign practice suggests that the question might well be decided in the light of domestic conditions and circumstances, there being no invariable guideline flowing from the experience of foreign central banks. In this context, the suggestion in the Bank's reply that we may overlook the law relating to industrial and commercial undertakings in our own country does not appear to be altogether sound in terms of the example of other central banks. For, where the central banks do not have a scheme of bonus applicable to their employees, it seems this is not unrelated to the fact that a generalised system of annual bonus does not prevail in the countries concerned. In other countries, e.g., in Europe or Japan where employees of central banks receive an annual or periodic bonus, it is found that a system of bonus as an element of remuneration of the personnel also form part of current industrial and commercial practice in these countries. So that, in either case, whether the practice of paying bonus in the central bank does or does not obtain, the general background of industrial and commercial practice of the countries concerned enters as a relevant factor in the scheme of remuneration of central bank personnel in other countries. Here, unlike other countries, we have a statutory system of bonus applicable to almost the entire organised industrial and commercial sector.

18.17 Secondly, the ground of absence of competition with the private sector, which has hitherto been sufficient by itself to keep the central bank outside the purview of bonus will, if our recommendation to include non-competitive public sector enterprises within the formal scope of bonus is accepted, no longer holds. Indeed, it does not hold in practice even at present in the non-competitive public sector enterprises themselves, whose employees receive *ex gratia* amounts equal to the bonus they would be entitled to in terms of the provisions of the Act.

18.18 Thirdly, the central bank is situated at the centre of a large profit-earning community whose guardian and protector in a sense it is. The Bank assists the whole industrial and commercial system to maintain and improve its profit-earning capacity simultaneously with its production and productivity. It is in this context that the staff of the Bank entertain the expectation that the Bank should have its scheme and pattern of remuneration conform, at least generally, to what obtains in the whole of the rest of the organised industrial and commercial sector.

18.19 As against the above considerations, however, it is relevant to note in the context of the profit-sharing system of bonus that the central bank's profits are *not* regarded as equivalent to commercial profits and nowhere do they form the basis of any form of sharing of profits as such with the employees. The profit of the central bank is of a very special kind. It is by no means the objective of the central bank to work for making profit, much less to maximise it. Such profit as it makes is purely incidental to the performance of its main functions which are, among others, to protect and promote the financial health of the community and stability of the economy. The central bank's profit is especially high during inflationary periods, which indicates that the profit of a central bank directly measures the extent to which it fails—for whatever reasons—to achieve one of its primary objectives. It follows that it would be undesirable to link any bonus in the central bank to its profit in any sense. This would hold even if it were possible to ascertain the commercial profits so-called of the Reserve Bank; we agree in the Bank's present and revised view that it is not practicable to determine such commercial profits from year to year. That the central bank's profit is in a very special class and could in no case be made the basis of bonus as in the general bonus law, is also clear from the fact that this profit is not subject to taxation. Nor is there a viable criterion for deduction of a reserve (in lieu of depreciation in industry) as in commercial banks. Hence a bonus of the general type as in the Act is wholly inappropriate and inapplicable in the Reserve Bank.

18.20 In the circumstances what could at best be considered for employees of the Bank would be the extension to them of a variant of bonus at a fixed or standard rate, not as a minimum bonus but as *the* rate of bonus. Were such a proposal to be considered, it will be readily seen, again, that deleting the present exclusion of employees of the Reserve Bank from the purview of the Act would not be the appropriate method of extending a fixed-rate bonus to the Reserve Bank's employees. For, hardly any of the substantive provisions of the Act relating, e.g. to computation of gross profits, available surplus, direct tax payable, minimum or maximum bonus 'set on' and 'set off' of allocable surplus, establishments to include departments etc., bonus holiday, etc.. would be applicable in terms of such a proposal. And if the exclusion of the Bank's employees were, nevertheless, deleted, this would have to be replaced by a number of exclusions from the purview of individual Sections of the Act. The purport of a proposal to extend a standard fixed-rate bonus could be met by

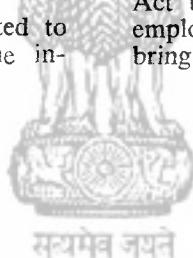
direct orders of the Reserve Bank Board. As our review of the position in other central banks indicates, bonus of a stable type does obtain in some central banks, but the position of the central bank in this matter is always a somewhat special one, and is ordinarily regulated in terms of a separate dispensation in view of the unique position and special function of the central bank in the economy. The fact, too, remains that the central banks which do have a type of bonus for their employees are not the ones whose example has been followed here in several organisational matters.

18.21 When the issue has been posed in the above form, however, and the only tenable form of bonus for the Bank's employees that emerges is a fixed-rate annual supplement to wages/salaries which has no semblance of the ordinary profit-sharing bonus that conforms to the current concept of bonus, other pertinent considerations come to the fore. At this point the most important fact has to be reckoned with is that the Reserve Bank's wage and salary structure is about the highest among the financial institutions in the country, and is also generally high. Besides, an element of bonus is already taken into account in formulating the wage and salary structure of certain classes of employees of the Bank. In the circumstances, the demonstration effect of any significant addition to the emoluments of the Bank's employees on the rest of the system will *not* be a salutary one.

18.22 Our review of the economy has pointed to the necessity of avoiding in the context of the in-

flationary situation and prospect any shifts in income distribution in the community which might have the effect of increasing consumption generally, especially through wage/salary increases in sectors which already have an edge in their incomes over other sectors. In an atmosphere surcharged with inflationary price increases there is a natural sensitiveness in the public mind about income increases of sections of the community who are already relatively well-off. In such a situation a claim to a fixed-rate annual wage supplement which does not derive from any parity with the annual profit-sharing bonus could gain acceptance only if it passes the test of a comprehensive review of the structure of wages and incomes in the economy and if this supports the case for a hike in any particular sector. Elsewhere, the majority of the Committee has recommended that Government should arrange to undertake such a review. The role of an annual supplement to wages as a component of wage increase should also be considered in the course of such a review.

18.23 In view of the above, the majority of the Committee recommends continuance of exclusion of the employees of the Reserve Bank from the scope of the Payment of Bonus Act in terms of Section 32. Shri G. Ramanujam and Shri Mahesh Desai dissent from the above recommendation and propose, on the other hand, that Section 32 of the Payment of Bonus Act be amended so as to delete clause (viii) 'viz., employed by the Reserve Bank of India' in order to bring these employees within the purview of the Act.



## CHAPTER XIX

### FINANCIAL INSTITUTIONS ASSOCIATED WITH THE RESERVE BANK OF INDIA : Section 32(ix)

Apart from the Reserve Bank of India, there is the question of bonus in the associated institutions *viz.*, Industrial Development Bank of India, Unit Trust of India, Agricultural Refinance Corporation, Deposit Insurance Corporation, Credit Guarantee Corporation, Industrial Finance Corporation of India (IFC), State Financial Corporations (SFCs), etc. The employees of many of these institutions, *viz.*, other than those of the IFC and SFCs, are seconded from the Reserve Bank of India. In terms of Section 54AA of the Reserve Bank of India Act which came into effect from 1st February 1969 any person deputed by the Reserve Bank of India for service in any institution the share capital of which is owned by the Reserve Bank to the extent of 50 per cent or more, is not entitled to bonus in that institution so long as no bonus is payable to the employees of the Reserve Bank of India. From the point of view of the general conditions of employment especially in regard to bonus, these institutions thus form a common sector with the Reserve Bank.

#### Views of Employees and Employers

19.2 The All-India Reserve Bank Employees Association which represents the employees including those of the associated institutions, except those of the Industrial Finance Corporation of India and State Financial Corporations, has urged the removal of Section 32(ix) so as to extend the benefit of bonus to these institutions. The Reserve Bank of India has urged continuance of the exclusion of these institutions from the purview of the Payment of Bonus Act.

19.3 The Bank's memorandum states : "These exemptions logically follow from Section 20 of the Payment of Bonus Act, 1965, which extends the provisions of that Act to public sector establishments only if they sell any goods produced or manufactured by them or render any services in competition with an establishment in private sector, and the income from such sale of goods or services or both is not less than 20 per cent of the gross income of the establishment in public sector for that year". The memorandum adds that each of these institutions performs certain unique functions and does not compete within its field with any other institutions in the private sector, and the profit motive is absent in all these cases, as it is in the case of the Reserve Bank. The Bank has, further more, stated that the considerations mentioned by it as applying to the Reserve Bank of India apply equally to the other institutions affiliated to or controlled by the Reserve Bank.

19.4 Besides, these institutions depend almost entirely on the Reserve Bank for their officers and staff. It is stated that it would be invidious to amend the provisions of the Payment of Bonus Act and also of Section 54AA of the Reserve Bank of India Act, so as to require these institutions to pay bonus like industrial and commercial undertakings, without extending bonus to employees of the Reserve Bank. It will be anomalous, if in any institution an employee drawn from the Reserve Bank were denied any bonus, while an employee recruited directly by that institution were granted bonus, or alternatively, if the employee from the Reserve Bank serving that institution were granted a bonus, merely because he happens to work in the institution while other employees working in the Reserve Bank are not granted any bonus.

19.5 There are other reasons against the grant of bonus quoted in the Bank's reply which apply peculiarly to these institutions. The special argument for their exclusion from the profit-linked bonus is that each of these institutions enjoys, directly or indirectly, various concessions and facilities, which are granted by the Reserve Bank and/or Government, and which materially enhance the profits of these institutions.

19.6 The Industrial Finance Corporation of India, though associated with the Reserve Bank of India now through the Industrial Development Bank of India, has a separate staff. It has accordingly responded separately to the letter to the financial institutions and supplied information regarding its salary (and bonus) pattern, as follows : "Until December, 1969, the structure of the emoluments of the Corporation's employees had been patterned on the lines of those prevailing in the Government of India from time to time. Even though the Corporation had been excluded from the purview of the Payment of Bonus Act, 1965, on representations received from the members of the staff, the Corporation sanctioned "ex-gratia" payment to its non-officer staff, equivalent to one month's basic pay or Rs. 500 whichever was less, for the two years ended the 30th June 1965. For the year ended the 30th June, 1966, the limit of "ex-gratia" payment was increased to two months' basic pay, the ceiling of Rs. 500 remaining unchanged. Subsequently, when the pay scales were revised, in August 1967, with retrospective effect from the 1st January, 1966, the payment of "ex-gratia" was also abolished from the 1st January 1966, and no *ex-gratia* has been paid since then. It may, however, be mentioned that in the revised pay scales, which

came into force from 1-1-1966, the monthly equivalent of *ex-gratia* was merged into the revised scales of pay.

"The pay scales were again revised substantially from the 1st January 1970, on the pattern of the pay scales obtaining in the Reserve Bank of India/IDBI. At the same time, the old scheme of paying allowances like Dearness Allowance, House Rent Allowance and Compensatory (City) Allowance on Government pattern was, since 1-1-1970, changed to RBI's pattern. All these have resulted in our staff drawing substantially increased emoluments from what they were getting prior to January 1970, which incidentally includes an element of *ex-gratia* also". The Chairman, IFC, in his reply to the Chairman's communication, after reiterating the position as stated in the above letter of the General Manager, states: "Consequently, the emoluments drawn by the employees of the Corporation at present includes an element of *ex-gratia* as in the case of the employees of RBI, who also, do not get any *ex-gratia* or bonus unlike the employees of banks, both in the private and public sectors".

19.7 The State Financial Corporations, though exempt from paying bonus to their employees, under Section 32(ix), have been making *ex-gratia* payments. The particulars of such payments for the last three years supplied by the Chief Officer, Reserve Bank of India, Industrial Finance Department, are given in an annexure to this chapter. It will be seen therefrom that all Corporations have been making an *ex-gratia* payment and the lowest rate of such payment has been 8½ per cent. Out of 10 Corporations which have responded individually to the Committee's request for information, five have expressed no view regarding extension of Bonus Act to them; four (*viz.*, Assam, Orissa, Mysore and Jammu and Kashmir) have favoured application at least of the equivalent of minimum bonus to their employees. The Maharashtra SFC is, however, "of the view that it should be exempted from the statutory obligation to pay a prescribed minimum bonus. This is not to say that the Corporation is oblivious to the desirability of payment of such amounts. The very fact that since 1965 onwards it has been making, *ex-gratia* payments on a liberal scale according to its financial position shows that it recognises the desirability of such incentive payments. But at the same time it is apprehended that a statutory obligation to pay a minimum bonus may adversely affect its financial position."

19.8 The Chief Officer, Industrial Finance Department, Reserve Bank of India, who has furnished a comprehensive note on the operation and working of the State Financial Corporations, has also dealt in some detail with the question of extension of the Payment of Bonus Act to the SFCs as follows: "In this connection, it may be mentioned that having regard to the nature of the functions of the Corporation, *viz.*, taking long term investment risks and given term loans at a relatively low rate of interest, and their financial position it will not be desirable to burden them with the payment of minimum bonus

irrespective of the satisfactoriness of their pay/wage scales as they are and the fact whether they make profit or loss, as such a stipulation is likely to strain their resources, add to the overhead costs and in due course impair their effectiveness as development institutions. Further, it may have an adverse repercussion on the cost of term credit to the small and medium-scale industries which provide large employment avenues and foster the growth of industries in the country. In this context, it is pertinent that in discharging their functions the profit motive is a secondary consideration and whatever gains accrue to them are utilised for rendering assistance to the medium and small scale industries. It is for this very reason that some of the promoters/investors in the SFCs have foregone their dividends. On the other hand, the SFCs generally pay satisfactory emoluments and they supplement this by voluntary bonus when they can."

#### Views of the Committee

19.9 The Committee's approach to the question of bonus for employees of financial institutions has to take account of the following considerations. On the one hand, there is the fact, as has been noted above, that State Financial Corporations are making *ex-gratia* payments in lieu of bonus like other non-competitive public sector enterprises, though not necessarily in conformity with the provisions of the Bonus Act. The Industrial Finance Corporation of India used to give bonus till the end of 1965, though the practice was given up in consequence of the adoption of scales etc. of pay applicable to the Reserve Bank sector, which include an element of bonus in the pay scales themselves. These financial institutions are part of the infrastructure of the industrial and commercial sector in which payment of bonus is a rule. They are also a segment of the financial sector of which the largest constituent is the banking system where the practice of payment of bonus to employees has been entrenched and established by long precedent. There is, therefore, an expectation among the staff of these institutions that their scheme of remuneration should accord with the pattern of rewards in the banking as well as industrial and commercial sectors. With the recommended removal of exemption from the purview of the Bonus Act of the non-competitive public sector establishments, the aspiration of the employees to secure a degree of conformity of the system of rewards in the financial institutions to that which obtains in the bulk of the financial and economic sector, by incorporating in it an element of bonus in some form, would acquire a new point.

19.10 On the other hand, in the case of these financial institutions, it also remains a fact that their profits are of a very special character, though in a different sense from the profits of the Reserve Bank. Basically, the profits of the institutions are heavily loaded with special facilities and concessions extended by Government and the Reserve Bank at considerable cost to Government and are buttressed by guarantees given by the Government. Thus the IDBI, IFCI, and SFCs, for example, have their operations in effect subsidised for the specific tasks of broadening the industrial transformation of the economy, and with

comparatively small complements of staff these institutions disburse huge amounts of funds and make sizeable profits. Partly in recompense for the special assistance given by Government the excess of their profits over and above necessary appropriations to reserves, flows back to the Government; the profits of many of the institutions are not subject to taxation. Determination of their profits on the basis of their operating on a fully commercial basis would, indeed, be an extremely complex and difficult task. Also, the employees of the financial institutions are among the best remunerated sections of the employed community. An assumption that they may claim to share in the highly subsidised profits of the financial institutions on a par with the employees of any commercial unit should not be established, as ordinary profit-sharing would not be appropriate to this sector. Again, some of the institutions render special services to different sectors of the developing economy, and the charges for their services require to be controlled in the interest of widening the scope of the services and the range and number of their beneficiaries. In this respect, the fiduciary character of the work of some of these institutions which in fact perform a service to a large number of small recipients of the benefits of their services, on payment of a small fee, is readily apparent in some instances. The Unit Trust of India, for example, purveys capsulated investment to a large number of small investors and imparts a fillip to savings in the economy. The Credit Guarantee Corporation guarantees loans to small industry on payment of a small fixed fee by the lending agencies. The Deposit Insurance Corporation reinforces the confidence of the small depositor in the entire banking system and works on the basis of a modest charge.

19.11 The above reasoning suggests that the only type of bonus which might provide the answer to the question of form of bonus for employees in this

sector by recognising the special character and situation of these institutions and providing for a degree of approximation of the pattern of their remuneration to that prevailing in the main part of the industrial, commercial and financial system, would be an annual supplement to wages at a fixed and appropriately low rate.

19.12 Once the claim is formulated in this form and loses its identity with profit-sharing bonus, the scope of which in particular the Committee was set up to consider, the proposal comes up against the hurdle that it would be a very different brand of bonus, in every way equivalent to an annual supplement to wages. As such it would have to be assessed on different criteria. The fact that the employees of financial institutions are among the best remunerated sections of the community would require that their claim for an annual addition to remuneration—howsoever modest—is looked at as part of a general review of wages and incomes of different sectors of the population, in an economic frame, and appraised accordingly. The desirability of a moderate component of remuneration being drawn in this form for sections of the population to which bonus in terms of the Act does not apply should also be considered as part of the review. Elsewhere the majority of the Committee has recommended institution of early steps toward such a review. In view of the above, the majority of the Committee recommends continuance of exclusion of employees employed by financial institutions under Section 32(ix) from the purview of the Act.

19.13 Sarvashri Mahesh Desai and G. Ramanujam dissent from the proposed continuance of exclusion of financial institutions from the purview of the Payment of Bonus Act and recommend that these institutions should be brought within the scope of the Act.

#### ANNEXURE

##### *Statement showing particulars of ex gratia payments made by State Financial Corporations to their staff*

Name of the Corporations	Rate of Ex-gratia payment		
	1970	1971	1972
1	2	3	4
1. Andhra Pradesh . . . . .	2 months' basic pay	2 months' basic pay	2 months' basic pay
2. Assam . . . . .	8½% of basic pay	8½% of basic pay	8½% of basic pay
3. Madhya Pradesh . . . . .	1 month's pay	1 month's pay	1½ months' pay
4. Maharashtra . . . . .	2½ months' basic pay	2 months' basic pay	2 months' basic pay upto Rs. 199—1 month's basic pay (200—700).
5. Mysore . . . . .	1½ months' basic pay	2 months' basic pay	2½ months' basic pay
6. Orissa . . . . .	8½% of pay & D.A.	8½% of pay & D.A.	8½% of pay & D.A.
7. Punjab . . . . .	2 months' pay plus D.A.	2 months' pay plus D.A.	2 months' pay plus D.A.
8. Rajasthan . . . . .	1/12th of salary	1/12th of salary	12% of salary
9. T.I.I.C. . . . .	3 months' basic pay	3 months' basic pay	3 months' basic pay

1

2

3

4

10. Uttar Pradesh . . . . .	25 days' basic salary (30 days to a few).	12½% of basic pay plus ad hoc allowance of two increments.	12½% of salary
11. West Bengal—Class A . . . . .	1½ months' sub. pay	Substantive Pay of Rs. 500 and above—1½ months' pay. Substantive Pay below Rs. 500—2 months' sub. pay plus Rs. 40. For sub. pay of Rs. 250 and below minimum being Rs. 175 for 1971 and Rs. 350 for 1972.	
Class B & C . . . . .	1½ months' pay plus Rs. 50		
Class D . . . . .	1½ months' pay plus Rs. 25		
12. Himachal Pradesh . . . . .		2 months' pay including D.A.	2 months' pay including D.A.
13. Delhi . . . . .		2 months' pay	2½ months' pay
14. Kerala . . . . .	16½% (incentive allowance)	20% (incentive allowance)	20% (incentive allowance plus 3½% ex-gratia).
15. Haryana . . . . .	2 months' basic pay plus D.A.	2 months' basic pay plus D.A.	2 months' basic pay plus D.A.
16. Jammu & Kashmir . . . . .	1 month's pay including D.A.	2 months' pay including D.A.	2 months' pay including D.A.



## CHAPTER XX

### BONUS FOR DOCK WORKERS AND PORT EMPLOYEES

#### The Bonus Commission

The question of bonus to stevedore or dock labour was considered by the Bonus Commission but it made no observation as regards the port labour presumably because the question of bonus to port labour, being employed directly by a Government Undertaking, was not covered by its terms of reference. On the question of bonus to dock workers, the Commission observed that in Bombay stevedore labour was paid profit bonus at a uniform rate but in other ports such labour was not paid any profit bonus. The Commission was of the opinion that the stevedore labour should not, *per se*, be ineligible for bonus even at other places than Bombay, e.g., Calcutta. In Bombay, prior to May 1956 bonus as gratuitous payment was paid to labour by individual stevedore employers at varying rates. This position was considered unsatisfactory and the members of the Bombay Stevedores' Association decided that the payment of bonus so far as that industry was concerned should be rationalised; it should be based not on the profits of the individual employer but on the true source of profit namely tonnage handled by the members of the stevedores' Association. The profits of the Stevedore employers did not come only from the stevedoring work. The employees had perforce to engage themselves in other activities which had either no connection whatsoever or only a purely incidental connection with the work in the Port of Bombay. Employees engaged in other activities had nothing in common with the dock workers employed by the employers. There were agreements between the Stevedors' Association and the Transport and Dock Worker Union in May 1960 and June 1962. As per the last agreement bonus was payable to the workmen at a certain rate per deadweight tonne of cargo excluding coal, mail and passengers' luggage and bananas loaded or discharged by the members of the Association at the Bombay Port. The rate fixed was 15 nP. per tonne for 2 years ending 31st March 1963, and 16 nP. for the 2 years ending 31st March 1965. The amount payable by the individual employers at these rates was pooled for distribution among the entitled workers on the basis of number of days actually attended by the reserve pool workers and on the basis of days attended by the monthly stevedore workers. The total amount of bonus constituting the bonus pool was divided among the reserve pool workers and the monthly workers in proportion to the number of man days and in proportion to the differentials in basic wages for the respective categories. (*vide* paragraph 17.15 and Appendix "G" of the Bonus Commission's Report).

20.2 The representatives of the All-India Port and Dock Workers' Federation who appeared before the Bonus Commission did not oppose the suggestion for the continuance of the bonus payment on the basis of tonnage and cargo handled. Therefore, it was considered desirable to continue with the programme of payment of bonus on tonnage basis. The Bonus Commission, however, further observed that in view of the particular circumstance in which stevedore labour was employed under the decasualisation scheme it was clear that the general formula would be inapplicable; so also any system of minimum or maximum bonus. The Commission therefore recommended that the bonus pool system for stevedore labour in Bombay should also be applied at other ports including Calcutta subject to such modifications as local conditions might require (*vide* paragraph 17.16 of the Bonus Commission's Report). In view of these recommendations employees registered or listed under any Scheme made under the Dock Workers (Regulation of Employment) Act, 1948, and employed by registered or listed employers have been excluded from the provision of the Act under clause (iii) of Section 32 of the Payment of Bonus Act.

#### Commission on Major Ports

20.3 The Commission on Major Ports appointed by the Government of India which submitted its report in June 1970 also considered the question of *ex-gratia* payment to the port employees. By the terms of reference, the Commission was asked *inter alia* to consider "the capacity of the ports to enhance the current rate of *ex-gratia* payment".

20.4 The representatives of labour urged before the Commission that precisely because the ports were not run as commercial institutions they were running many of the services below cost and therefore in their opinion a maximum *ex-gratia* payment of 20 per cent of the wages should be paid to the port workers. The suggestion was also made by some of the members of the Commission that *ex-gratia* payment should be related to the total tonnage of the cargo handled at the ports during an accounting year and not to their operational results for two reasons, namely,

- (a) that there should be uniformity in the method of bonus calculated for both the port and dock workers, and
- (b) that financial working of the ports was such that sufficient surpluses were unlikely to be available for payment of *ex-gratia* above the minimum level of four per cent.

The Commission did not accept any of the suggestion made before it. It, however, observed that the calculation of the bonus under the Payment of Bonus Act was based on a number of assumptions which were inapplicable in the case of port trusts such as return (8.5 per cent) on equity, provision for development rebate etc. Moreover, unlike other commercial organisations, the ports were not liable to pay income tax which is a permissible deduction under the Payment of Bonus Act in the calculation of available surplus. The Commission came to the conclusion that the Act formula *per se* did not furnish an appropriate basis for determining the capacity of the ports to make *ex-gratia* payments.

20.5 The Commission, therefore, considered a separate formula and recommended it. According to that formula, the working expenses should first be deducted from the gross earnings to arrive at the gross surplus. Then out of the gross surplus provision should be made for depreciation calculated on the straight-line method on the historical cost of the assets and for 12 per cent return on capital employed, to arrive at the available surplus. The available surplus should then be shared between the employees and the port in the ratio of 60 : 40. If, according to the above calculation, there was no available surplus the port should make the minimum *ex-gratia* payment of 4 per cent to its employees.

In other words, the formula was as follows :

#### Gross Earnings

Less Working Expenses

Balance: Gross Surplus

Less (i) Depreciation on historical cost (straight-line method)

(ii) 12 per cent return on capital employed

Balance: Available surplus

Allocable surplus: 60% share of employees  
(40% share of port).

In this formula there was no deduction in respect of income tax or development rebate or development allowance in arriving at the available surplus. However, in terms of it the categories of employees eligible for *ex-gratia* payment, the basis for the computation of the wages, provision for 'set on' and 'set off' etc., would be governed by the Payment of Bonus Act. So far it does not appear that the recommendations of the Commission on Major Ports have been accepted by the Government of India. If the Commission's formula were accepted, there would be no uniformity either in the rate of bonus to dock and port workers or in bonus to employees in different ports.

#### **Views of Employees' Organisations**

20.6 The Calcutta Port Shramik Union in its memorandum to the Committee at the stage of interim inquiry stated that the Government of India by an Agreement with the labour, approved *ex-gratia* payment in lieu of bonus at 4 per cent of salary or

wages upto 1966 to the Port Trust employees. This benefit was also extended to Class I and Class II officers in certain conditions from the accounting year 1966-67. The *ex-gratia* payment has been continued on the ground that the port trusts are service organisations and not profit-making bodies like other government organisations. Therefore, there should not normally arise any question of being left with any allocable surplus for payment of *ex-gratia* to the port employees as the assessment of the capacity of the ports was to be made in the light of a variety of factors such as "the development programme of ports with special reference to the changing shipping and port technology, the national needs, management—financial and personnel, of the major ports and their methods of working". The Union had then *viz.*, at the stage of interim inquiry suggested to the Bonus Review Committee to make recommendation regarding 8½ per cent of the annual earnings as the minimum amount of the *ex-gratia* payment to port and dock workers, as an interim arrangement until a nation-wide rationalised formula for the Port Trust could be evolved.

#### **Views of Employees' Organisations**

20.7 The Calcutta Dock Labour Board in its memorandum has suggested that the workers covered under the various schemes framed by the Dock Workers (Regulation of Employment) Act should continue to be excluded from the coverage of the Payment of Bonus Act. It has further observed that the workers covered by the former Act generally handle cargo on board the ships, which cargo is handled also by another set of workers on the shore, under the control of the port authorities. In India, for historical reasons, these two sets of workers, namely, the workers on shore under the employment of port authorities and those handling cargo on ship have had many differences which have caused problems for many years. They have not only been under two entirely different managements but the managements themselves have been also under two entirely different administrative Ministries of the Government of India, namely, the Ministry of Transport for the Port Trust and the Ministry of Labour for the Dock Labour Boards. Changes are, therefore, necessary to remove the differences in the fundamental approach to the question of bonus (*ex-gratia*) which had existed between two sets of workers upto 1969-70 for all ports and existed in 1970-71 for 5 out of seven ports governed by the Dock Labour Board Scheme. The bonus which was being paid to the workers covered by the Dock Workers (Regulation of Employment) Scheme under the recommendations of the Bonus Commission was, up to 1970-71, generally higher than the 4 per cent *ex-gratia* which was being paid to the shore workers employed by the Port Trust. In 1970-71 when the Khadilkar formula drove up for many ports the level of *ex-gratia* payable by the Ports to 8½ per cent, the workers covered by the Dock Workers (Regulation of Employment) Schemes in these ports and their employers gave up the production-based bonus pattern which was recommended by the Bonus Commission and demanded the

percentage of total wage basis for bonus at the same level that the shore side workers became entitled to under the Khadilkar formula. With the interim recommendations of the Committee for 1971-72 the same changes took place in all the ports since all of them were required to pay  $8\frac{1}{3}$  per cent to the shore workers which was generally higher than  $6\frac{1}{2}$  per cent to 7 per cent which had been paid earlier to the workers covered by the Dock Workers (Regulations of Employment) Scheme. The position, therefore, since 1970-71 in some ports and since 1971-72 in all ports came to be established that the differences between the two sets of workers were in fact been removed. This was a positive step in the right direction and the Dock Labour Board strongly recommended that whatever formula was finally evolved by the Committee it should ensure that there was no difference in this matter between two such closely allied sets of workers. It is understood that from 1972-73 a fresh distinction in the rate of bonus for port workers which continues at  $8\frac{1}{3}$  per cent and for dock workers which in the ports of Calcutta, Madras, Vishakapatnam, Cochin and Goa has increased to between 10 per cent and 11 per cent has come to be established.

20.8 The Calcutta Dock Labour Board has further pointed out that in the Government's plan for the future, one of the possibilities is that the two sets of workers might in any case be integrated under the same managerial body and belong to one organisation. The ports of the country are service organisations and perhaps the most important ones in the field of transportation. The ports are non-profit Government undertakings. Whether or not bonus, strictly speaking, is applicable to workers in such organisations, to leave major sections of workers/employees out of an annual lump sum payment in a country where everybody else working for industry is by law required to pay such a lump sum, is a problem which must be looked at realistically before long. The Board further suggests that, in their view, it may be possible to satisfy both these seemingly opposing positions by going over to what is widely practised elsewhere in the world, namely, that all such workers/employees as are not directly covered by the present Bonus Act should be eligible for 13 months' gross wages for 12 months of work, the extra months wages being payable either in the month when the worker/employee goes on his annual leave or such other time as may be agreed to between the concerned employers and workers/employees. If this is clearly laid down in the Payment of Bonus Act, it would not only remove the present difference

in the treatment between two sets of workers handling the same cargo in the ports, but it would end the disputes which arise every year on the quantum of bonus for a very large section of the country's organised workers.

20.9 No views on the problem were received from other employers' or employees' organisations, despite reminders from the Committee's office.

#### Views of the Committee

20.10 The majority of the Committee is convinced that there should be no differentiation in the matter of payment of bonus to the port and dock workers who handle the same cargo, one set of workers on board the ship and the other on the shore. There is every reason that the rate of bonus for the two categories of workmen should be the same.

20.11 The majority of the committee notes that an *ex gratia* payment at a rate equal to or slightly higher than the minimum bonus under the Payment of Bonus Act as amended is being paid to the port and dock workers. These workers belong to the essential services sector where measurement of profit of the employers on account of cargo handling is extremely difficult and even impracticable. *Ex gratia* annual payments at a rate equivalent to the minimum and equal to the once-for-all structural adjustment in the minimum rate of bonus consequent upon the recent increase in it should be accepted as a permanent and non-variable feature of the remuneration of port and dock workers.

20.12 The question remains of the form in which the grant of such annual payments, which have been *ex-gratia* in the past, should be effected. The matter is at present regulated by direct Government orders. The majority of the Committee sees no reason for a change in the method of dispensation of bonus under Government orders and recommend that the position may be continued accordingly. In view of the special position of the service of dock and port labour which is of an essential and infrastructure character it may continue to be exempted from the purview of the Act. The majority recognises that this recommendation of the Committee is not for a suitable modification in the Act, but is made [in terms of term of reference (vi)] on a connected/ancillary matter.

20.13 Sarvashri Mahesh Desai and G. Ramanujam dissent from the above view.

## CHAPTER XXI

### PUBLIC SECTOR UNDERTAKINGS

The Committee's terms of reference require it to suggest suitable modifications in the scheme of bonus outlined in the Act and also to consider and make recommendations on any connected/ancillary matters. In this and the following chapter we shall consider the question of (a) public sector units which do not compete with private sector establishments and (b) departmentally-run Government industrial and commercial undertakings, both of which categories have been exempted from payment of bonus under the Payment of Bonus Act. This chapter will concern itself with the status under the Payment of Bonus Act of public sector undertakings.

21.2 By virtue of provisions contained in Section 20(1) of the Payment of Bonus Act, "if in any accounting year an establishment in public sector sells any goods produced or manufactured by it or renders any services, in competition with an establishment in private sector, and the income from such sale or services or both is not less than twenty per cent of the gross income of the establishment in public sector for that year, then, the provisions of this Act shall apply in relation to such establishment in public sector as they apply in relation to a like establishment in private sector." In other words, Section 20(1) of the Act excludes non-competitive public sector undertakings from the purview of the Act, such undertakings being defined as those the gross income of which from sales of goods or services is less than 20 per cent.

21.3 The above provision was adopted in pursuance of the recommendations of the Bonus Commission. One of the members of the Commission appended a note on "Treatment of public sector enterprises from the point of view of the bonus formula" in which he referred to the wider aspects of competition between the public and private sectors in terms of resources (labour, capital and materials). But the Commission understood competition under its terms of reference to mean only 'competition in the service and products of a public sector enterprise', and set up a criterion, *viz.*, "if not less than 20 per cent of the gross sales turn-over of a public sector undertaking consists of sales of services and/or products which compete with the products and/or services produced and sold by units in the private sector," as a basis of application of the formula to such units.

21.4 Notwithstanding the provisions of the Payment of Bonus Act, Government, as a matter of policy, decided that even non-competitive public sector undertakings should also make *ex gratia* payments to their employees of a minimum of 4 per cent of the salary or wage of the employee on the

same lines as bonus was payable by public sector enterprises falling under the provisions of the Bonus Act. Directions were also issued to those public sector undertakings which were formerly paying *ex gratia* payments higher than 4 per cent, that the levels of past *ex gratia* payments should be maintained. Subsequently, employees of some public sector undertakings demanded an increased rate of *ex gratia* payments in view of the improved position in the profitability of those units. The question then arose as to whether this *ex gratia* payment should also be increased proportionately with the level of profitability, since the *ex gratia* compensation was in itself a concession to keep labour satisfied. It was felt that there would be some compulsive situations where public sector enterprises might find it necessary to accept the demands of their employees for receiving higher rates of *ex gratia* payment. Directions were issued that in such cases payment of higher rates of bonus would be a matter for negotiation between the management and employees concerned. However, in such negotiation, due regard should be given to the overall profitability and financial position of the undertaking. Similarly, a question arose as to whether the benefit of bonus should also be extended to officers of public sector enterprises drawing salary above Rs. 1600 per month. The benefit of bonus was later on extended even to officers drawing salary higher than Rs. 1600 per month provided the enterprises had earned profits and payment was made from the employer's share of the available surplus.

21.5 It has been represented to the Committee that the Bonus Act which has thus been applied on a *de facto* basis to non-competitive public sector undertakings, should now be applied to them on a *de jure* basis.

21.6 Since the time when the Bonus Commission submitted its report, the number of public sector units has increased considerably. Many of these units are of the nature of industrial and commercial organisations and very few of them are in the non-competing monopolistic category. Soon after the minimum bonus was raised to 8½ per cent following the submission of our Interim Reports, the Government of India decided that pending formal amendment of the Act, public sector establishments which were not required to pay bonus under the Act by virtue of the provisions of Section 20 thereof should also make payments as if the Act applied to them in respect of the accounting year commencing in 1971. The State Governments were also requested to issue suitable instructions to such establishments.

21.7 In Annexure III to Chapter V, information supplied by the Bureau of Public Enterprises has been given on the rates of bonus paid by public sector undertakings and the basis of computation of such bonus rates has also been indicated. It will be seen from the detailed calculations furnished that the bonus as paid in the public sector units is determined just as if the Payment of Bonus Act applied to them in full force; occasionally, the rates of bonus given have been better than those indicated by the calculations.

21.8 As the non-competitive public sector undertakings, which are comparatively few in relation to the competitive public sector undertakings, are now paying bonus as *ex gratia*, there is no reason why they should continue to be excluded from the purview of the Act. A majority of the Committee, therefore, recommends that the provisions of the Payment of Bonus Act should be extended to the non-competitive, public sector undertakings as well. Such extension is desirable also for the reason that the test of competitive character of an enterprise incorporated in the Payment of Bonus Act is not very

securely based and cannot be said to have any real long-term validity, as the Government appears to have appreciated by its executive orders. It would seem advisable, therefore, to convert the *de facto* liability of these enterprises to pay an equivalent of bonus into a *de jure* obligation. This would have the advantage of setting up a system with acknowledged scope and coverage, the conditions and needs of which as a whole should be taken into account for the future for considering any adaptations in it rather than leave the needs of a large sector, *viz.*, non-competitive public sector enterprises out of account in the first instance, but make them liable, all the same, to the full obligations of the bonus regime. *De jure* extension of coverage to include such enterprises would also ensure better conformity in regard to rate, limit of salaries, etc., with whatever is the accepted general framework for the purpose.

21.9 Sarvashri N. S. Bhat, Billimoria and Harish Mahindra dissent from this recommendation as they are opposed to any extension of the coverage of the Payment of Bonus Act.



## CHAPTER XXII

### DEPARTMENTALLY-RUN GOVERNMENT INDUSTRIAL AND COMMERCIAL UNDER- TAKINGS

We shall now consider the question of departmentally-run Government industrial and commercial undertakings which have been exempted from the operation of the Act under Section 32(iv). As per this sub-section, "employees employed by an establishment engaged in any industry carried on by or under the authority of any department of the Central Government, or a State Government or a local authority" have been excluded from the purview of the Act. Such establishments are also outside the purview of the Act in terms of its definitional section under which an "establishment in public sector" means an establishment controlled or managed by a Government company or a corporation in which not less than 40 per cent of its capital is held by Government or the Reserve Bank and does not, therefore, include the departmentally-run Government undertakings.

22.2 Governmental industrial and commercial undertakings fall under two different categories, as follows : (1) where the industrial undertakings have been operating under a department of a Government from the beginning or for a very long time. This category would include the Railways including the workshops run by Railway authorities, Posts and Telegraphs, Government Printing Presses and Mints, Ordnance Factories under the Defence Department, All-India Radio etc. The category divides itself further into (i) undertakings e.g., Railways, Posts and Telegraphs etc., which produce and sell goods and services to the public and are thus commercial undertakings and (ii) other undertakings which do not sell their products or services to the public, but are nonetheless of the nature of industrial undertakings. (2) Industrial and commercial undertakings which were formerly in the private sector (and therefore, were paying bonus) but later on were taken over under the Industries (Development and Regulation) Act, 1951 or other Acts e.g., the Bombay Relief Undertakings (Special Provisions) Act, 1958 or the Sick Textile Undertakings (Taking over of Management) Act 1972. This category includes most of the textile mills which have been taken over and are being run either by the National Textile Corporation or the State Textile Corporations acting as authorised Custodians. The employees of such undertakings were getting bonus before but on account of the provisions contained in sub-section (iv) of Section 32 and in view of the decision of the Bombay High Court in the case of D. P. Kelkar Vs. Ambadas Keshav Bajaj, per Chief Justice Kotwal and Justice Palekar 73 Bombay Law Reporter (April

1971, Page 260) that such establishments are treated as carried on under the authority of the Department of State Government, are not entitled to bonus under the Act. In most cases, however, the employees of units in this category are now being given *ex gratia* payments equivalent to bonus, which are generally equal to the minimum bonus for private sector establishments as these units are mostly running at a loss. In some cases, however, more than the equivalent of minimum bonus and even *ex gratia* payments on a par with bonus for other mills are being paid to their employees.

#### Views of Employees

22.3 The Committee invited federations of employees of departmentally-run undertakings of the Central Government as well as the Ministries and Departments in the Central and State Governments to state their point of view in the matter. Representations on the subject were received from the National Federation of Indian Railwaymen and the National Federation of P. & T. Employees; a memorandum was also submitted to the Committee by the Confederation of Central Government Employees and Workers. Memoranda and replies to the Committee's questionnaire were received from the Ministry of Railways, Indian Posts & Telegraphs Department, Ministry of Shipping and Transport, Ministry of Works & Housing, Department of Defence Production in the Ministry of Defence, Departments of Economic Affairs and Banking in the Ministry of Finance of the Central Government as well as from some State Governments. The Committee had opportunity to meet the representatives of the employees of departmentally-run undertakings and some employer departments of the Central Government for oral evidence. Appendix D lists the departments and officials who appeared in oral evidence before the Committee.

22.4 The National Federation of Indian Railwaymen has reiterated the demand which it stated had been made by it "since long" on behalf of the railwaymen of the country that the bonus should be extended to all the railwaymen. Its memorandum pointed out the following, among others, as relevant considerations in support of their demand.

"The Railways are a branch of the transport industry. That the Railways are owned and administered departmentally by the Government of India does not change in any

way the character of the industry. The ownership and administration of the Railways are more a matter of accountability rather than the nature and character of the industry".

"Further, the Bonus Commission had recommended that public sector undertaking not competing with the private sector should be exempted altogether from the scope of the recommendations. Nevertheless, the Government saw that the exclusion of such undertakings would be undesirable and hence directed all such public sector undertakings also to pay bonus to their respective employees as an *ex gratia* amount was to be calculated in the same manner as that of bonus".

"The NFIR are sure that the Bonus Review Committee are seized of the judgment of the Andhra High Court striking down the exemption granted from the Bonus Act in respect of employees in certain industries such as Ports and Docks, L.I.C., etc. as discriminatory in law".

"The railway employees had fulfilled all other conditions in making them eligible for bonus. They are already governed under the Factories Act, Industrial Disputes Act, Workmen's Compensation Act and Provident Fund Act, etc.".

22.5 The National Federation of P. & T. Employees has, among other things, urged the following. "The field organisations of the Postal and Telecommunications of the Industry have to handle a very large variety of tasks. The Postal traffic is increasing at a fast rate and depends on transportation provided by the Railways and the Indian Air Lines and the Telecommunications look after the operation of telephone and telegraph services. These two organisations form part and parcel of the entire machinery actuated with the primary objective to assist in the economic growth of the country and with a view to promoting employment and the well-being of the community". "The P. & T. industry as a whole is treated as a commercial department. It is responsible for the provision of services which are essential and important from the point of view of greater production and economic growth". The claim for bonus has been mainly supported on the ground that the P. & T. employees are relatively low-paid, that they are entitled to living wage and that the gap between the actual and living wage should be bridged by bonus paid at the end of the year.

22.6 The Confederation of Central Government employees has staked a claim to bonus on the score that bonus is a device to bridge the gap between the worker's actual wage and the ideal of living wage. In terms of this concept of bonus it has urged that there can be no discrimination between worker and worker in the matter of coverage. It therefore, suggests : "The Payment of Bonus Act must lay

down that a minimum of 8½ per cent must be paid to all workers, whether industrial or not, whether there were profits or not, by all employers including the Governments, Central, State and Local Bodies. Payment of minimum bonus must, therefore, be brought under legislative regulation. Any quantum above the statutory minimum should be left to the process of collective bargaining."

#### Views of Employers

22.7 The response of the Central Government Ministries and Departments to the demand for bonus on the part of departmentally-run undertakings is more or less uniformly and emphatically in the negative. The reply of most of the Central Government Ministries and Departments is in similar terms. The main points are brought out in the reply of the Ministry of Railways, as follows.

"The question regarding extension of applicability of Payment of Bonus Act to Government undertakings, including Railways, has been examined and it is considered that the concept of bonus, which is related to profit, has little relevance to the type of work which is done by a Government Department even when it functions as a public utility, because in such a case commercial principles have to be muted to serve social and national interests.

"The departmental undertakings of the Government, particularly the Railways, provide vital services to the community through movement of essential commodities and all classes of passengers. Their pricing policies are also oriented towards minimising the burden of transport. Even if surpluses are, or can be generated, they have to be utilised to serve national purposes like raising resources for the further development of rail transport etc. and cannot be made either the basis of or occasion for distribution to the employees.

"The Railways in common with departmental undertakings do not have a considerable degree of freedom in altering their policies so as to absorb the increased costs of operation. Any increases in Railway freights and fares would have to be carefully considered with reference to their inflationary impact on the general economy. Also, there is a close and continuous parliamentary control over these policies.

"Another important difference between Government organisations and private companies (as well as public sector units) is that the idea of bonus as an entitlement in addition to wages, where certain conditions are fulfilled, has been in existence for a long time in the latter organisations. In this background, the level of wages in such organisations can also be deemed to be broadly adjusted to take into account the bonus element in the emoluments. On the other hand, so far as Central Government Undertakings are concerned, their pay scales and service conditions are periodically reviewed by Pay Commissions which, while taking into account appropriate relativities and other factors, have not so far, because of the circumstances of the case, included the idea of bonus. Briefly stated, the wage structure in a Government undertaking may be

treated as all-comprehensive and pervasive in its nature by way of remuneration to its employees. Payment of bonus to Government employees would, therefore, introduce fresh inequities and distortions into the structure of their wages and salaries and this will generate demands for unwarranted revisions in pay scales."

"Any requirement of payment of bonus to departmental undertakings and, in particular, Railways would have a price push effect and may give a new dimension to the inflationary pressures which already exist."

"There can be no distinction between the manufacturing units and maintenance or operational departments of services. Any proposal to make the provisions of Payment of Bonus Act, 1965, applicable to any particular category of Railway employees will automatically have to be extended to cover all Railway employees."

"The total cost of paying bonus at the rate of 8½ per cent will be about Rs. 35 crores for the Railways."

22.8 The justification for exclusion of employees of Government department undertakings from the bonus scheme is also forcefully and comprehensively presented in the reply of the Ministry of Defence (Department of Defence Production). After dealing in a preliminary section with the concept of bonus "which all along has been, in essence, a scheme of profit-sharing bonus" the Department's reply elaborates the reasons for exclusion of departmentally-run undertakings from the bonus scheme, as follows.

"The basic concept of scheme of payment of bonus being that of profit-sharing, it is obvious that there should be no question of payment of any bonus to employees of Government Departmental establishments which are not profit motivated and are essentially establishments set up for providing certain essential services to the community."

"The departmental undertakings of the Government have as their principal objective the provision of certain essential services to the community in a manner most conducive to the promotion of social welfare. Thus, maximisation of profits is not their primary objective. As such, in framing their pricing policies, they have to take into account the repercussions on the economy as a whole, including the effects on income distribution. These considerations considerably reduce their degree of freedom in altering their prices in response to increased costs. Since they provide certain essential services to the community, they do not have the option which is open to an ordinary enterprise to go into liquidation if it continues to incur losses year after year."

"From the stand-point of terms and conditions of employment also, there is no justification for treating the employees of Government departmental undertakings at par with employees elsewhere in industry. While the salary and wage structure in the industry in general is determined, among other things, through the machinery of bilateral settlements, Awards of

Industrial Tribunal, and Wage Boards, the salary and wage structure in respect of employees of the Government departmental undertakings has evolved as part of the salary and wage structure of Government employees in general. The revised salary structure of the Central Government employees has just been evolved by the Third Pay Commission, in the full knowledge that the Central Government employees, including those in the Departmental Government undertakings, are not eligible for bonus. Since in making their recommendations the Commission have already gone exhaustively into the question of the fair level and structure of wages and salaries in Government, there is no justification for extending the scheme of the Payment of Bonus Act to the Departmental Government undertakings as that would introduce fresh inequities and distortions into the wage structure of the Central Government employees.

"Even if the departmental undertakings like the Railways or Posts and Telegraphs earn surpluses, these surpluses cannot be treated like profits of an industrial concern, which must be shared with workers. Prices of departmental undertakings are in the nature of administered prices and any increase thereof has to a considerable degree the characteristics of an increase in general tax rates designed to raise additional resources for development or for other high priority activities. Since nobody has suggested sharing of taxes with Government employees, it would be equally absurd to suggest that departmental undertakings should either share their profits with their employees or else increase their prices simply to pay bonus to their employees.

"If the departmental Government undertakings are also burdened with the payment of bonus, one of the following consequences will follow: First of all, the payment of bonus may be met by an upward revision in prices of goods and services produced by these undertakings. This cannot be contemplated lightly since an increase in prices such as in railway fares and freights has far reaching consequences on the economy's cost price structure. It will almost certainly add to the inflationary pressures and also reduce the competitiveness of our exports, a rapid growth of which is vital for self-reliance. Alternatively, the cost of the bonus may be met by a subsidy from the budget. This in turn will either lead to an increase in the budget deficit with the inevitable inflationary consequences or else lead to diversion of available budgetary resources from an increase in investment outlays to bonus payments in support of higher current consumption. In an economy in which there is vast amount of un-employment and under-employment, such a course of action would aggravate the existing inequities in the distribution of income. Finally, bonus payments may be financed by diverting resources currently earmarked for expansion of capacity of departmental undertakings. This again is a course of action which would adversely affect the future growth of output and employment and as such is hardly to be commended."

22.9 Finally, the reply of the Department of Defence Production refers to special considerations relating to the departmental undertakings of the Ministry of Defence as follows.

"An important feature which distinguishes employees of the departmental undertakings of the Defence Ministry from those of the industry, in general, is that in the case of Defence Undertakings, there is no lay-off or even retrenchment when there is drop in the utilisation of the optimum capacity in these undertakings due to fluctuations in demand and Government thus continues to employ and pay the workmen same rates of salary and other fringe benefits even during these "idle periods". In other words, the wage structure and fringe benefits admissible to the employees already include an element of unemployment insurance, which is not so in the case of the industry in general.

"Additionally, the following aspects have to be especially taken note of in the case of employees of the Central Government Ordnance factories of the two departmental factories under the Ministry of Defence, i.e. Heavy Vehicles Factory, Avadi and Accelerated Freezed Drying factory at Agra. In the case of these factories practically the entire production goes to meet the requirements of the three Defence Services who get the products of these factories at cost and there is no question of any profit motivation in these factories. The direct result of extending the scheme of bonus to the employees of these factories will be an increase in the cost of the products required by the Defence Services.

"Moreover, once the scheme of bonus were made applicable to the employees of Ordnance factories and the two departmentally run factories mentioned above, this is bound to lead to a chain reaction of similar demands from civilian employees in the Defence Establishments such as Army Workshops, Naval Dockyards and Air Force Maintenance Workshops or Repair Depots, etc., and finally even the clerical and supervisory staff in the Ordnance Depots etc. and other Defence Offices also.

"Extension of the bonus scheme to the employees of Departmental Government Undertakings would impose a formidable additional financial burden on the Government, which will either necessitate Government carrying on with a higher deficit budget or increase in taxation, both of which contingencies will seriously hit the community at large."

22.10 The point of view of the Central Government Departments has been reiterated and brought out even more emphatically in the course of oral evidence and in a further memorandum (dated May 26, 1973) sent to the Committee by the Additional Secretary, Ministry of Finance, Department of Economic Affairs. The memorandum states : "The question of payment of bonus to employees of departmental undertakings run by Government has necessarily to be considered in a wider context and not from the limited angle of parity of treatment with wage earners in the industrial sector. Since the passing of the Payment of Bonus Act in 1956, demands have been made from time to time for the extension of the benefit to employees in the departmentally-run undertakings also, and the matter has been sought to be raised in various forums. However, the demand is not now confined to the employees working in the departmentally-run undertakings and claims for grant of bonus are also being

advanced on behalf of other categories of Central Government employees including those working in the Secretariat and other offices.

"These demands imply a fundamental change in the concept of bonus. Bonus is essentially a form of profit sharing or an instrument for improving productivity in an undertaking. Since even those undertakings which incur losses are required under the Bonus Act to pay a minimum bonus, it has been argued that this bonus is in the nature of a deferred wage. This conclusion is, however, not correct as the basic purpose of this provision is merely to introduce some degree of stability in the total emoluments .....

"The Departmental undertakings of the Government have necessarily to keep in view many social considerations, and their pricing policies and freight/fare structures have wide repercussions on the economy as a whole, e.g., the Railways transport foodgrains at below cost, and adopt very favourable telescopic rates for essential commodities such as coal. For units, which are in effect captive plants, selling their products mostly, if not wholly, to the user Departments, the price adopted is usually a notional price, which may be different from the market price as normally understood.

"The financial effect of granting bonus to all Central Government employees (including Defence personnel) on the basis of the existing wage bill is likely to be of the order of Rs. 101 crores per annum. The report of the Third Pay Commission which has since become available envisages a sizeable increase in the Central Government Servants' wage bill." "The total immediate cost on account of the Pay Commission's recommendations can be broadly taken as Rs. 150 crores and this would represent the additional cost during 1973-74. Over the years the financial burden will mount due to the higher rates of increments in the new scales etc."

The memorandum generally underlines the very heavy impact by way of additional financial burden on central finances of the extension of bonus, at the rate of minimum bonus, to the employees of departmentally-run undertakings. Regarding the magnitude of the likely total burden, the memorandum states : "Demand of bonus if conceded for Central Government employees will inevitably have repercussions on the employees of the State Governments and local bodies and if these are taken into account the magnitude of the expenditure may be approximately Rs. 213 crores per annum."

22.11 Earlier, the Ministry of Finance, Department of Economic Affairs, Coinage Section, had sent a reply to the Committee's questionnaire, which had argued for exemption specifically of the Ministry's own departmentally-run undertakings but had conceded the claim of bonus of employees of other important Government undertakings, as follows :

"The subject has been in our view for quite some time. Our view is that an undertaking producing goods and services for the market could legitimately be brought within the purview of the Bonus Act,

even if it be a Government-run undertaking. On the other hand, a departmental undertaking which caters to the own needs of the Government and not the market should be kept out of the purview of that Act. Our mints, Security Printing and Currency Note Printing Presses and the Security Paper Mill belong to the latter type of undertakings and there should be no room for bonus payments in them. There is some difference in our departmental undertakings and the departmental undertakings of the P & T Board and the Railway Board in that while our undertakings do not come in contact with ordinary public in the matter of sale of goods and services produced by them, the latter undertakings under the P & T Board and of the Railways do come under such contact in regard to sale of goods and services produced by them. In other words, the Departmental undertakings of this Ministry do not earn any profit in the real sense of the term, although, for auditing and accounting purposes, commercial principles are followed by these undertakings in maintenance of accounts. As there is no real profit, the question of introduction of bonus on profit-sharing basis does not apply to this Ministry's Departmental undertakings.

"However, sometimes a very small part of the production of some of our undertakings is meant for the market. For example, the Bombay mint produces "proof" coins for sale to the public. It also serves as the sole gold refinery for meeting the refining needs of the public. The Mints have undertaken a few export orders as well. All these activities, however, constitute a fraction of the total activity undertaken by them (the income from such sale and services or both will be much less than 20 per cent of the gross income of the establishment in a particular year) and should not, therefore, alter their basic character, *viz.*, of not being oriented to the market."

### The Committee's Approach

22.12 We come now to formulation of the Committee's approach to the question of bonus for the departmentally-run undertakings of Government. A word may be in order at the outset regarding how we view the relevance of the problem under our terms of reference. Having regard to the representations made to us by federations of organisations of employees on this question we thought that we should go into at least its broad aspects, since we have been enjoined to make recommendations not only on suitable modifications in the Act but on any connected/ancillary matters. In particular several members of the Committee took the view that its terms of reference were wide enough to enable the Committee to give some thought and time to considering extension of the scope of the Act in relation to directly owned Government undertakings, particularly as the employees of some of these undertakings, *e.g.*, Railways, were very much exercised by their exclusion from the scope of the Bonus Act, or from *ex gratia* payments to their employees in any form, though the nature of employment in them was not dissimilar to that of several other public sector undertakings.

22.13 The majority of the Committee appreciates, too, that the question of bonus for Governmental undertakings might not be one pertaining to suitable amendments of the Act, as the terms and conditions of service of Government's employees might not appropriately be regulated by an Act which defines the obligations of individuals and corporations: Government could extend any facilities or bonus to its staff by its own orders. At present, the salaries, emoluments and benefits of Government employees which include pension, and which distinguish them as a class of employees, are being regulated by direct Government orders and not in terms of legislation, *e.g.*, for provident funds, gratuity etc., which governs the conditions of employment in the private sector. It has to be recognised, therefore, that, administratively, the two questions *viz.*, bonus in the sector of private employers and public corporations on the one hand and bonus for Governmental employees, on the other, fall into different realms. Though the question of bonus for employees of Governmental undertakings, if bonus or its equivalent were to be extended to them, is probably not precluded from being regulated under the Payment of Bonus Act, it might be preferable for it to be governed by direct Government orders. In other countries, too, bonus to Government employees, where granted—it is not a usual practice—is a separate dispensation from bonus for private employees. Sarvashri G. Ramanujam and Mahesh Desai dissent from the above view on the procedure of possible treatment of bonus for Government employees, if bonus were agreed to be given to them.

22.14 The Committee has in particular been enjoined to make a careful assessment of the likely impact of its recommendations on the national economy before finalising its Report. In view of this specific caution in the terms of reference, which in any case is implicit having regard to the scope and size of enquiry entrusted to us, our task in framing an approach to the problem has been especially difficult and complex. We did not exclude the subject of extension of bonus to departmentally-run Government undertakings from our consideration having regard, as mentioned above, to the strong feelings in the matter of large sections of employees who regard themselves as industrial and commercial employees and the views of several of our colleagues, though we were not able to conduct an enquiry of requisite depth in relation to this vast sector. We have, however, received comments and views in writing from Central Government departments as well as heard oral evidence on broad aspects of the subject both from them and from employees. In view of the importance of the problem and the fact that it might inevitably impinge on the attention of the Government, we thought it better to share with Government such thinking as emerged among us on an exploration and consideration of this field particularly as we had been invited by our terms of reference "to consider and make recommendations on any connected/ancillary matters". Our approach to the question has thus not been framed on formalistic lines and we proceed to state our views.

### Pros and cons of "Bonus" for Government Employees

22.15 Having approached the question in its broad relevance to the context of our enquiry the Chairman and Sarvashri Bhat, Billimoria and Harish Mahindra find that the arguments for and against the payment of an equivalent of bonus to departmental employees may be summarised as follows :

#### Arguments For

22.16 First are recounted below the arguments which favour consideration of grant of a form or variant of bonus to the Government employees engaged in industrial and commercial employment.

- (i) The Committee by majority has recommended that all corporate public sector undertakings, including the non-competitive, be included within the purview of the Bonus Act. If the recommendation is accepted, a large category of non-competitive public sector undertakings whose employees already receive the full equivalent of bonus in *ex gratia* payments, will be included *de jure* within the scope of the Bonus Act.
- (ii) Bonus as *ex gratia* payment is already applied to the corporate public sector undertakings and, therefore, to textile mills and other units taken over by Government and so organised, e.g., as members of the National Textile Corporation and Industrial Reconstruction Corporation of India. It also prevails in various units run by State Governments. It is to be noted, however, that there was a tradition of payment of bonus in such textile mills before they were taken over and the practice is only being continued on an *ex gratia* basis after the organisation of such units has changed.
- (iii) In a few sectors, e.g., port and dock workers employed by Government bodies, who number some tens of thousands, Government has been pleased to grant an equivalent of bonus as *ex gratia* payment to the workers at the rate of 8½ per cent of total wages in order to allay industrial unrest and to promote industrial peace; the rate has been recently increased to this level. Other sectors of Government employees who can claim that they are industrial employees—having been recognised as such through extension to them of various relevant pieces of legislation, e.g., Factories Act, Industrial Disputes Act, Workmen's Compensation Act, etc.,—make the same claim as has been accepted by the Government in the case of port and dock workers.
- (iv) This problem assumes particular point for Governments, usually State or Local, in the context of situations such as where one transport undertaking is private, another is a Government corporation (both such undertakings being liable to pay bonus or its

equivalent) and a third is organised as a departmentally-run Government enterprise. This illustrates that though the form of organisation is often optional, and in any case not always obligatory on organisational considerations as such, it has important implications for labour arising out of differences in the liability to pay bonus of undertakings under different organisational forms.

- (v) A higher level of minimum bonus under the Payment of Bonus Act at the sizeable level of a month's wages/salaries regardless of profits that has come into force in the last two years, has sharpened the edge of the demand for an extension of the scope of bonus to sectors hitherto excluded.
- (vi) Though a direct comparison between Government and other employment may not be appropriate in view of the intangible rewards of Government employment, the image of Government as a model employer has suffered some impairment in recent years in consequence of a relative trend in the emoluments of its employees *vis-a-vis* other employees. Every increase in bonus in the private and public corporate sectors worsens the relative position of the Government employee; the fact that such increase is effected under legislation proposed and approved by Government magnifies any appearance of differentiation in the employment terms of the Government employee in the eyes of the latter.

#### Arguments Against

22.17 Next are listed the considerations which suggest caution against arriving at a favourable decision for the present in the matter :

- (a) The issue of bonus for Government employees, even those engaged in industrial and commercial undertakings, hinges largely on the ability of the Government to respond to the demand in the total context of the priorities for development, investment and social welfare programmes. Reference has been made elsewhere in the Report to the claims of the under-privileged sections of the community—the poor and the unemployed—whose numbers are staggeringly large and growing, and whose plight in comparison is dire. The urgent claims of these sections insistently demand remedial investment directed to their problems. This aspect has to be carefully weighed in determining the timing, extent and manner of response to the expectations of the Government industrial and commercial employees, who yet remain among the comparatively better-off sections of the population. In this connection, also to be taken into account is the fact, which at least partly balances the above consideration, that in the absence of schemes of social insurance and unemployment relief, the burden of sustaining the stream of the incoming unemployed into the urban areas, devolves at least to some extent on the existing employed population. In this light, the plight of the existing employed sections would not appear to

be as comfortable as it might seem at first. However, the employed part of the population including Government employees still stands in a class by itself, above the teeming poor and unemployed.

(b) In the context of the insistent and overdue need for programmes of development and relief on behalf of the backward, vulnerable and disadvantaged sections of the population, the far-reaching implications of the serious adverse shift recently in the outlook of the country's economic position have to be carefully weighed in arriving at a decision on the problem. This deterioration in the country's position and prospects has been caused in particular by the explosion in international oil prices and steep increases in the prices of other vital imports, including food and fertilisers, with disruptive consequences for the balance of payments. For our part, we have been unable to assess adequately the full import of this looming factor on the economy in relation to the problem under consideration. This much is clear. It is a new cautionary signal hoisted on the Indian economic scene, which reinforces the need for utmost restraint on consumption and for the maximum stimulus to savings with a view to restoring the severely shaken balance of the economy. The balance of the economy has been upset both externally and internally, as reflected in an unparalleled rate of inflation in peace-time.

(c) There can be no question of bonus of the ordinary profit-sharing type, that is to say, of bonus which is proportionate to profits being introduced in departmentally-run Government undertakings. The concept of profit is very different in Government departmentally-run undertakings which are essentially public service organisations, operating within a regulated framework of prices, and which are not run for profit as such, maximisation of profit not being the criterion of their successful performance in the same sense as for private sector units. Also, the actual profit made by these undertakings is either very small or a negative one. In most cases there remains only the hypothetical capability of making some profit, which would, however, mostly fall short of the fresh investment resources required by each undertaking for the expansion of its operations. Also, taxation does not apply to them and hence, too, the greater responsibility of these undertakings to help finance their own expansion out of their own resources. Consistently with the character of these enterprises as providing services of an infrastructure nature on a steady basis and on moderate terms, the only brand of bonus which could be considered suited to their situation could be a fixed rate bonus equal to the minimum bonus in the case of ordinary industrial and commercial enterprises and in the nature of a once-for-all structural adjustment in the pattern of remuneration of these employees.

(d) The most important sector of the Government employees which is proposed for being considered for the purpose of this structurally fixed and stable type of bonus is the industrial and commercial employees of Governments—Central, State and Local, who are engaged in undertakings which produce and sell goods and services. It is the sector of employees who are

employed in activities that are capable of making profit even if in fact the profit is modest, negligible or negative (*viz.*, a deficit or loss), that is to say, broadly the same classes of employees who are eligible for the benefit of bonus in the private sector. The problem of demarcating industrial and non-industrial employees of Government in terms of the above criterion, however, poses another issue. This issue has been pointed up in the reply to the questionnaire of the Ministry of Finance, Department of Economic Affairs, Coinage Section bearing on the distinction between "an undertaking producing goods and services for the market" which "could legitimately be brought within the purview of the Bonus Act"—and undertakings in this category are "the departmental undertakings of the P & T Board and the Railway Board"—and "on the other hand, a departmental undertaking which caters to the own needs of the Government and not the market" which "should be kept out of the purview of the Act". Illustrations of undertakings in the later category are the mints, the Nasik Government Press for security and currency note printing, the Security Paper Mill, Government Printing Presses, Ordnance factories, Chittaranjan Locomotive Works, etc. which are industrial undertakings producing goods for supply to Government, whether in the same department or other departments. Having regard to the basis of the current demand for bonus on the part of employees of departmentally-run undertakings, which hinges on (a) the nature of activity and employment being allied to that in the private sector and in public sector corporations, and on (b) the difference made to the pattern of remuneration of employees of departmentally-run undertakings by the fortuitous circumstance of the form of their organisation. It would appear that a decision to extend bonus in any form to such undertakings, if made, should include also the class of undertakings which do not supply goods and services for the market but produce them for supply to Government. The basis for demarcation of employees might thus be the nature of activity and employment, *viz.*, whether it is industrial or non-industrial, as undertakings which do not supply goods and services to the market but do so only to other Government departments are, nevertheless, industrial in character. Production of goods and services for sale to the market is the more logical criterion for applicability of bonus where it is directly linked to profit. However, having regard to the only kind of bonus which, owing to the infrastructure and service character of Government industrial employments, could be considered for Government industrial employees, namely, a fixed-rate bonus equal to the minimum for other employees, an extension of bonus to the sector of Government employees which left the worker in Ordnance Factories, or the Chittaranjan Loco Works out of its scope would not rest on a tenable line of demarcation.

(e) Beyond the issues of the sub-categories of industrial employees referred to in (d) above, another important question which arises and which has been referred to in the replies of various Central Government departments, is whether it is practicable to draw a clear line of distinction between the industrial employees of Government on the one hand and non-

industrial employees on the other running through the entire gamut of Government services, when no such distinction has been made in the past and, on the contrary, parity of treatment in regard to terms and emoluments of service has been the rule. In particular, bonus has not been a feature of the terms of remuneration of *any class* of Government employees, and the question therefore arises whether, if introduced, bonus could be restricted to a section or some sections of Government employees. Also, the issue is whether it is more equitable, appropriate and desirable to establish a new parity in regard to the pattern of remuneration, through inclusion of an element of bonus, among all industrial employees, whether in the private sector, corporate public sector and Governmental sector, or to maintain the parity or line of demarcation as it is to-day, *viz.*, between the private and corporate public sectors on one side and the Governmental sector on the other. The process of drawing a line between industrial and non-industrial employees has implications for State and Local Governments as it may not be practicable or equitable to leave State and Local Government employees out of any such general benefit as and when extended.

(f) The question of bonus or an equivalent of it for Government employees assumes a different aspect from an ordinary policy issue for decision in terms of the Payment of Bonus Act, once the basic import of the following two propositions is grasped :

- (i) Given the fact that the only form of bonus that can at all be considered for this class of employees is a fixed-rate bonus at a moderate percentage of wages/salaries (the demand is for 8½ per cent being equal to the minimum bonus of the Act), what is proposed is patently an annual supplement to wages, regardless of whether it is a deferred wage or not. A fixed rate addition to wages, once a year, irrespective of the financial working of Government enterprises does not conform to the concept of bonus under the Act, modifications in the scheme of which the Committee has been asked to consider.
- (ii) Apart from the fact that the only feasible form of bonus for Government employees would be equivalent to a deferred wage, in view of the terms and conditions of Government employment being a separate realm regulated by direct Government orders, the matter calls for decision—procedurally—through a process which weighs carefully all the elements and constituents of the terms and conditions of Government employment, including such new annual supplement to wages/salaries at a fixed rate. Since the proposed bonus so-called is not profit-sharing in any sense of the term and is, therefore, altogether different from the bonus of the Act, the new proposed annual wage has to be assessed in terms of different criteria.

(g) Once the issue is posed in the above form, other relevant considerations come to the fore. The relative decline that has been observed to have occurred in the post-tax emoluments of the Government employees in recent years is also a matter for development of an integrated wages and incomes policy for the organised sector as a whole, and is not merely a matter for sectional treatment, particularly when it involves Governmental actions on a vast scale.

#### **Review of Wages and Incomes**

22.18 The Chairman and Sarvashri Bhat, Billimoria and Mahindra consider that it is important to undertake a comprehensive review of wages and incomes in the economy with a view to evolving a framework of policy for introducing more order and system into the scheme or structure of wages, salaries and incomes such as there exists at present, and they recommend that such a review be taken up.

22.19 It is necessary to define the objectives of the review, which should aim both at securing a more effective functioning of the economic system toward its purposes, especially more rapid economic growth and furthering the social objectives of containing inequality and widening equality by upgrading lower incomes in addition to reducing higher incomes. The review must take careful stock of the instrumentalities available for any action programme in the direction of the objectives and must steer clear of obvious pitfalls or facile assumptions. In particular, the enquiry must avoid falling into the easy snare of confining its view to the very limited field of wages and salaries and spending itself in prescribing ranges in the incomes of the organised wage/salary sector which forms less than 5 per cent of incomes, while leaving out of account the whole of the rest of the economy—over 95 per cent—including the poor and partly employed millions, whose incomes have to be brought into a tenable relationship with those of the moderately affluent many, though the treatment of the few ostentatiously rich would also have to claim attention. In the main, however, the stress must be on levering up the standards, and not merely on levelling down without due regard to the critical role of wage differentials in economic development. If any emergency measures in the sphere of wages and incomes are instituted, they would make it all the more necessary to develop urgently the framework of a long-term policy in the sector to replace the short-term measures in due course.

#### **Estimated cost of fixed rate bonus for Government Employees**

22.20 It may be useful to put together some relevant data and facts bearing on the estimated coverage and cost of a fixed-rate annual 'bonus' for Government industrial employees, were it to become a fact. A question that arises in any possible extension of bonus to Governmental industrial employees concerns the comparative numerical significance of the sector to which bonus might be extended in relation to the sector which is already covered. It would appear that the sector of employees thus likely

to be additionally covered would be at least as important as the sector which is already within the purview of the Bonus Act or otherwise receives an equivalent of bonus. Following are some of the employment data, categorywise, as on March 1973 :

	(In lakhs)
1. Central Government . . . . .	29.12
2. State Government . . . . .	45.74
3. Quasi-Government . . . . .	24.94
4. Local Bodies . . . . .	19.01
Total Public Sector . . . . .	118.81
Private Sector . . . . .	69.4

In the above figures quasi-Government represents largely the class of Government companies and corporations in which bonus already applies. If this is subtracted from Government employment and added to the sector of private employment, the two parts of employment, one of which is broadly within the scope of bonus, and the other outside it, would be almost equal in size; though the sector already covered by bonus may be smaller owing to the exclusion of many small establishments. However, not the whole of the Government sector might be proposed to be covered by bonus if the suggestion were to include industrial and commercial employees of Government. An idea of the likely extent of coverage of the employees within Government, who would be brought within the scope of bonus if this were restricted to industrial employees, is given by the following figures of distribution of employment in the Governmental sector :

(Figures in lakhs)

1971

Railways . . . . .	13.99
Posts & Telegraphs . . . . .	3.93
Defence (civilians) . . . . .	5.97
Others . . . . .	5.93
Total . . . . .	29.82

Source : Report of Third Pay Commission.

It will be seen that the larger part of Government employees would receive bonus as industrial employees, since only the two major undertakings in the Governmental sector, viz., Railways and P & T, had nearly 18 lakh employees out of a total of about 30 lakh Government employees. If industrial employees in other Ministries and departments are included, the proportion may exceed two-thirds. The proportion is likely to be much smaller in the State Government sector, but perhaps not lower in Local Governments.

22.21 A most important aspect of the problem of bonus for sections of Government employees is the financial cost involved, and the likely effects on the national economy of acceptance of a large additional liability for expenditure on this score. It may be useful to set out the results of our enquiry in this regard. We have quoted above the estimates of likely cost as given by some of the Ministries of extending bonus to certain sections of industrial employees of Government as well as the cost of extending bonus to all Government employees. The Railway Ministry places the estimate of cost at Rs. 35 crores and the Posts and Telegraphs Department at Rs. 6.4 crores. The two undertakings account for employment of at least 18 lakhs out of about 30 lakhs of Government employees. Having regard to this proportion and the specific nature of the above estimates, we are unable to reconcile the above cost estimate with the estimate of Rs. 101 crores for Central Government employees as a whole given by the Ministry of Finance (*vide* para 22.10 above), except on the basis that the average level of salaries in these two undertakings (viz., Railways and Posts and Telegraphs) is possibly much lower than salaries in the Central Government generally : the two estimates imply that about 60 per cent of the employees account for 40 per cent of total wages/salaries, and contrariwise, the other 40 per cent of employees account for 60 per cent of total wages/salaries. Taking account of the increases since effected in the salaries of Government employees, however, we would accept the larger Ministry of Finance estimate, which itself might turn out to be an under-estimate in the context of the further D.A. increases which have since taken place. If bonus were limited, however, to industrial employees the cost to the Central Government may be of the order of Rs. 90—100 crores. If State and Local Governments are included, this figure may go up to about double of the above figures.

22.22 The magnitude of the burden in terms of the total budget expenditures of Governments—Central and State—may be adverted to briefly. The total outlay of the Central and State Governments and Union Territories (not including the Local Governments) in the current year (1974-75), may be of the order of Rs. 12,500 crores. On this basis, the incidence of bonus may be slightly less than 1.5 per cent. An additional liability of this order would be over and above the obligation resulting from the Pay Commission's recommendations, including the successive D.A. increases, and the burden on the budget should be viewed also in Plan terms and, therefore, quintupled in order to appraise the impact on the Plan.

#### Summing up

22.23 The economy at present is going through a period of tremendous and exceptional strain. With the heavy draft on our foreign as well as domestic resources likely to be entailed by the current critical phase of the economy, which has been compounded by the international oil crisis, the phase of unusual and extreme stress is likely to be a prolonged one. In this situation, any addition to the budgetary deficit

or deficit-financing could not be contemplated with equanimity. Also, any addition to taxation specifically to finance the burden of 'bonus' is *ex hypothesi* largely excluded, as the tax resources would in any case be stretched to the limit. Only marginal adjustments in either method of financing the extra outlay could thus be assumed. We have set out in an earlier chapter our general assessment of the trends and state of the economy. Our own appraisal of the likely effects of our recommendations on the economy suggests that the super-imposition of a fixed-rate bonus equal to the minimum bonus under the Act on top of the increases in wages and salaries in the Governmental sector resulting from the Pay Commission's recommendations, is likely to accentuate seriously the strain on the economy at the current juncture and in the near term future. The Chairman and Sarvashri Bhat, Billimoria and Mahindra, therefore, consider that Government employees should continue for the present to be outside the purview of bonus.

22.24 Sarvashri G. Ramanujam and Dr. S. D. Punekar recommend that all industrial and commercial establishments as well as manufacturing and trad-

ing establishments, whether run as a corporation, company, commission, society, authority, board, or whether as a department or under the authority of a department of Central Government, State Government or local authority, whether run as a captive unit or as an open unit, whether competitive or not, shall be brought within the Payment of Bonus Scheme, and suitably covered by the Payment of Bonus Act. Where in any industry/establishment, it is found that the Act formula as such cannot be applied, Government shall arrange for the evolution of a suitable separate formula through either Bipartite or Tripartite machinery set up for the industry/establishment concerned. Until this is finalised in the manner aforesaid the employees in all such industries/establishments shall receive the minimum bonus of  $8\frac{1}{3}$  per cent subject to the revision in the manner aforesaid.

22.25 Shri Mahesh Desai does not agree that the coverage should be extended only to workers in commercial-cum-industrial establishments in the Government sector. He does not consider such limitation of bonus to commercial-cum-industrial establishments only as either practicable or desirable from the employees' point of view.



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Our Secretariat consisted of only a minimum complement of staff and all the members collaborated and worked assiduously to facilitate our labours. Our very special thanks are due to the Secretary of the Committee, Shri K. R. Wazkar, a senior and seasoned

official with extensive knowledge of labour affairs who worked ably and unstintedly to assist us throughout. Shri V. A. Iyer, Deputy Director supervised the statistical basis of computation in the Report and competently collected the data received in response to the Committee's questionnaire.

Among other members of the staff mention may be made of Shri Krishnan and Shri Karmarkar, our stenographers, for their efficient performance. Shri Mande, Senior Investigator and Shri Mirchandaney, Upper Division Clerk were very helpful in looking after the tour arrangements and other administrative functions. Mrs. Karandikar, Junior Investigator systematically arranged the record of written memoranda received from the parties. We record our appreciation of the services of the entire staff.

B. K. MADAN  
*Chairman*

\*N. S. BHAT  
*Member*

\*HARISH MAHINDRA  
*Member*

R. P. BILLIMORIA  
*Member*

\*G. RAMANUJAM  
*Member*

\*MAHESH DESAI  
*Member*

S. D. PUNEKAR  
*Member*

K. R. WAZKAR  
*Secretary*  
Bombay, 27th September, 1974.

\*Subject to a separate note/minute of dissent.

## TRENDS IN REAL EARNINGS OF LABOUR

by

B. K. Madan\*

The trend of real earnings of labour especially during the period of the plants has been a subject of considerable interest. It has, however, had much less than its share of attention by researchers. Until the Report of the National Commission on Labour, only one notable study of the subject had been attempted. The National Commission has given elaborate statistics in its Report on the aggregate as well as industry-wise trends in money and real earnings of labour.

2. The tables below, based on Indian Labour Statistics, of which Table A is given in the Report of the National Commission on Labour, show the changes in money and real earnings of factory workers earning less than Rs. 200 per month, since 1951, and earning less than Rs. 400 per month, since 1961.

*A. Movement of Money and Real Earnings of Factory Workers earning less than Rs. 200 per month: 1951—1964*

Year	Index of Money Earnings Per Worker (Base 1951=100)	All India Consumer Price Index (1949 base shifted to 1951) (1951=100)	Index of Real Earnings Per Worker (Base 1951=100)	सत्यमेव जयते			
				Factory Workers	Mine Workers	All India Consumer Price Index (1961=100)	Index of Real Earnings of Factory and Mine Workers (1961=100)
1951	100.0	100.0	100.0				
1952	107.1	98.1	109.2				
1953	107.7	101.0	106.6				
1954	107.7	96.2	112.0				
1955	113.1	91.4	123.7				
1956	115.4	100.0	115.4				
1957	120.8	105.7	114.3				
1958	122.3	110.5	110.6				
1959	126.4	115.2	109.7				
1960	134.4	118.1	113.8				
1961	138.6	120.0	115.5				
1962	144.0	123.8	116.3				
1963	145.2	127.6	113.8				
1964	151.4	144.8	104.6				

Source : Report of the National Commission on Labour, Table 14.3, page 189.

*B. Index Number of Money/Real Earnings of Employees in Manufacturing Industries and Mines, earning less than Rs. 400 per month: 1962—70*

Year	Index No. of Money Earnings (1961=100)		All India Consumer Price Index (1961=100)	Index of Real Earnings (1961=100)		
	Factory Workers	Mine Workers		Factory Workers	Mine Workers	
				(1961=100)		
1962	.	.	106	104	103	103
1963	.	.	109	111	106	103
1964	.	.	114	112	121	94
1965	.	.	128	127	132	97
1966	.	.	139	138	146	95
1967	.	.	151	179	166	91
1968	.	.	160	189	171	94
1969	.	.	171	202	169	101
1970	.	.	175	206	178	98
						116

Source : Indian Labour Statistics, 1968 and 1972.

3. It appears that during the first five years of the period broadly coinciding with the first five-year plan, consumer prices remained generally stable, the index being 91.4 in 1955 with 1951=100. Real earnings of *low-paid workers* viz., those in the category having earnings of less than Rs. 200 per month increased during the same period by about 24 per cent. From then on prices assumed a sharp uptrend and real earnings as in the table scored no further gains and on the other hand declined, money earnings of low-paid workers lagging behind the rising consumer prices. Over the twenty-year period from 1951 to 1970, the real earnings of factory workers show a small decline.

4. In view of the significant difference between the above picture of trends largely based on the pages of the Report of the National Commission and that presented in Chapter VI of the Committee's Report it is desirable to examine the sources of divergence. The table below reproduces the index numbers of money and real earnings of workers as given in the Committee's Report side by side with the index

\*Sarvashri Bhat, Harish Mahindra, Billimoria and Dr. Punekar fully associate themselves with and endorse the analysis and conclusions of this note.

Sarvashri G. Ramanujam and Mahesh Desai do not endorse the analysis or the conclusion of Dr. B. K. Madan's note. The note does not concern the terms of reference of the Committee and hence was not discussed in the Committee and is not based on the discussion in it.

numbers as in the Report of the National Commission on Labour. Both sets of index numbers are deflated from the series of money earnings by the same consumer price index numbers. However, the Committee's series of money earnings is for all workers; the series of money earnings of the National Commission on Labour is for *low-paid* workers, viz., workers with a wage below Rs. 200 per month before 1958 and below Rs. 400 thereafter, in terms of the statistics being collected under the Payment of Wages Act.

#### *Index Number of Money Earnings in Real Earnings*

(1951 = 100)

Year	Index numbers of money earnings per worker (all workers)	Index numbers of money earnings per worker as given by the N.C.L. (low-paid)	All India average consumer Price Index Nos.	Index numbers of real earnings per worker (all workers)	Index numbers of real earnings per worker as given by N.C.L. (low-paid)
1	2	3	4	5	6
1952 .	<b>105.3</b>	107.1	98.1	<b>107.3</b>	109.2
1953 .	<b>108.8</b>	107.7	101.0	<b>107.7</b>	106.6
1954 .	<b>108.5</b>	107.7	96.2	<b>112.8</b>	112.0
1955 .	<b>109.4</b>	113.1	91.4	<b>120.0</b>	123.7
1956 .	<b>114.3</b>	115.4	100.0	<b>114.3</b>	115.4
1957 .	<b>119.5</b>	120.8	105.7	<b>113.1</b>	114.3
1958 .	<b>122.6</b>	122.3	110.5	<b>111.0</b>	110.6
1959 .	<b>123.4</b>	126.4	115.2	<b>107.1</b>	109.7
1960 .	<b>136.7</b>	134.4	118.1	<b>115.7</b>	113.8
1961 .	<b>145.3</b>	138.6	120.0	<b>121.1</b>	115.5
1962 .	<b>157.8</b>	144.0	123.8	<b>127.5</b>	116.3
1963 .	<b>166.2</b>	145.2	127.6	<b>130.3</b>	113.8
1964 .	<b>175.1</b>	151.4	144.8	<b>120.9</b>	104.6

5. A comparison of the money and real earnings per worker in terms of the two series for all workers and for the *low-paid* workers (used by the National Commission) shows that the two series held well together till about 1959. From 1960 they tended to diverge, the index numbers of money as well as real earnings of all workers rising significantly more than those for workers in the *low-paid* category, which were subject to an in-built limitation: with the steep rise in prices, and with them of money earnings of all workers, the index numbers of money earnings of *low-paid* workers began to lag more and more and trail behind those of all workers, thus highlighting the inherent drawback of the statistics collected under the Payment of Wages Act for purposes of an overall assessment either of money or real earnings of workers in general. The result is reflected in the growing divergence over time of the two series of money as well as real earnings for all and for low-paid workers respectively.

6. The Committee's table is itself based on the data for earnings of 'all workers' given in the National Commission's Companion Volume of Statistics of Selected Manufacturing Industries (Part I), which are quoted in the Commission's Report for their study of wages in relation to value-added-to-manufacture (pp. 224-225). The Committee used these data, recognising the Commission's own statement of the limitations of their conclusions regarding real earnings as "not based on the average earnings of all workers" (Report of the National Commission on Labour, p. 189). This, viz., average earnings of all workers, the Commission acknowledged, was the correct measure of changes in earnings as it avoided the shortcoming from which their own conclusion suffered, viz., "a change in the proportion of workers employed in different wage ranges" (Report of N.C.L. page 189, para 14.19). "Thus, during 1951-64, real wages have shown little improvement, while in 1964 there has been a substantial decline. This conclusion suffers from a limitation as it is not based on the average earnings of all workers and there might have been, during this period, a change in the proportion of workers employed in different wage ranges" (Emphasis added). This particular snag arises in a serious form in the data which the Commission unhappily came to use : the Commission's data for their study of real earnings are those given in the Indian Labour Statistics. While these statistics are published more promptly and are more up-to-date, they suffer from the limitation that they pertain to a limited category of workers and not to all workers. As such they overlook the result of increases in earnings of workers to above Rs. 200 (before 1958) and to above Rs. 400 (after 1958). In other words, the data used by the Commission omit to state the shrinkage in size viz., proportion to the total of the respective category of workers whose wages only are measured.

7. These statistics are specially and definitely prone to understatement of increases in earnings during inflationary phases when with rising prices, money earnings also tend to increase more steeply than at other times. In such situations any increase in earnings which takes workers out of the category having the specified ceiling would omit to be recorded. It is obviously a faulty method of measurement of an increase (in earnings) that if the increase is greater than of a certain magnitude, it is left out of account. The resultant measure is clearly a deficient and misleading index of how earnings in fact behaved. It happens that the Commission used the defective series for the real earnings table in the Report. Though the Commission mentioned the limitations of the series they were using, they appeared to overlook the critical character of these limitations and the extent to which they affected, during periods of sharp price and wage increases, the validity of several of their important observations and conclusions on the assessment of trends in real wages.

8. In view of the importance of the subject and its somewhat technical and detailed character I propose to go more fully into the character and sources of the snags in the analysis presented by the National

Commission on Labour. With reference to the Commission's observation regarding the bearing of "a change in the proportion of workers employed in different wage ranges", on its own conclusions and measurement of trends in real earnings of workers, it can in fact be said for certain that there would have been significant shifts in the proportion of workers employed in different wage ranges, and in particular that *the proportion of workers having total earnings of less than Rs. 200 per month during 1951—64 or less than Rs. 400 per month during 1961—70 would have declined during the respective long periods*, the decline occurring especially at times of steeply advancing prices with simultaneous upward movement of money earnings. This upward thrust would have taken the money earnings of large numbers of workers *above* the ceiling (whether Rs. 200 or Rs. 400) for the wage range the average earnings in which were being measured. Statistically, therefore, given the long period over which changes in earnings are measured and the continuous, often steep, rise during the period in all money earnings, including the lowest and even minimum wages and earnings, there was bound to occur a shrinkage in the proportion of workers falling in the category, *viz.*, below a given ceiling (whether Rs. 200 or Rs. 400). There is just no way, statistically, by which the average earnings of the workers who are included in the lowest category at both ends of the period during which the increase in their earnings is measured, can keep pace with a steeply advancing price and wage level which shifts an increasing proportion of workers in the lowest category out of the category itself. This statement would hold though there were actually an increase—even substantial—in the real earnings of workers who were in the low-paid category *at the beginning of the period*. It is by following throughout a period the real earnings of *all* the workers, rather than by confining the survey only to workers who continuously remain below any specified ceiling, that we can measure the change in real earnings of workers. At the least, for this purpose, a record of the proportion of workers which falls within the category is indispensable for an assessment of the likely actual trend of real earnings of workers in general.

9. It will be readily apparent that the proportion of workers employed in the wage range in question, *viz.*, less than Rs. 200 or Rs. 400 per month is all-important to a measurement of the actual trend of earnings of all workers. For, in the absence of this proportion, all that the statistics quoted indicate is: (a) that the real earnings of *low-paid* workers have not increased or have continued to decline somewhat, *though* (b) the proportion of low-paid workers to the total may have declined (or, contrariwise, the proportion of high-paid workers may have increased a reasonable presumption on which, however, it happens that there are no statistics. It should be clear that the information in regard to (a) can be meaningful only if it is taken together with information on (b). For a measure of change in the income of a certain population (in this case, workers) what are required are: (i) changes in the income of wor-

kers within any categories, and (ii) shifts in distribution or proportion of workers between categories. The above analysis clearly brings out that the whole exercise in wage-measurement as presented by the National Commission on Labour has had its focus on movements *within a category* and has made no attempt to measure, as stated by the Commission itself, "the average earnings of all workers", principally by omitting from consideration the crucial factor of the changing size or importance in relation to the total of the category of measurement even though it is a fair presumption that this category itself was diminishing in relative size, and this fact rendered nugatory a conclusion which overlooked this factor. The fact that data on the relative importance of the category were or are not available, does not justify investing a measure of change in real earnings *within a limited category* with the authority of an over-all measure of the trend of earnings of workers in general—money or real. Such measurement *has to* take account of the proportion of workers in the wage range when there is a reasonable presumption that this proportion is changing, if valid conclusions are to be drawn from it regarding the general level of earnings of all workers. As the note brings out later, data on the real earnings of all workers can, and could then, be compiled on the basis of the very series which was used by the Commission for its conclusions on a related matter, *viz.*, wages to V.A.M.; only, these data are available with a longer time-lag and would, therefore, be less up-to-date.

10. Meanwhile, in view of the far-reaching bearing of these observations on many conclusions which have been considered highly authoritative, it may be useful to delineate a little more in detail the nature and manner of operation of the in-built downward bias which is introduced into a measure of real earnings *in a given wage-range* based on application of a deflator of prices to a *sharply rising trend of money-wages* in a period. Ideally, a measure of real earnings could more accurately reflect the trend of real earnings of the workers included in a wage-range during a base year, if the same workers continued to be within the wage-range in the year of measurement of change in real earnings as were included within the wage-range during the base year.\* Actually, however, the same workers will never be there over any extended period. What we have to observe and analyse, then, for the purpose of appreciating the innate downward bias is : (a) the process of change in the composition and numbers of the labour force in the category, and (b) the process of change in the *relative size* of the workers force included in the category in relation to all workers. The process by which a change in the numbers and composition of the labour force in the category would occur is by workers at the higher end moving out of the category and by an *equal, larger or smaller* number entering at the lower end, through fresh additions to the organised labour force. During a period of rapid expansion in employment, both the total number and the relative proportion of lower paid workers *may* go up, through new entrants outnumbering the outgoing workers and a downward pressure on the average level of earnings

\* This is an over-simplified statement of assumption, as the same workers will not be there even throughout the base year itself.

could be exercised thereby. This pressure thus could emanate from the employment end, even if the wage rates as such do not alter. Contrariwise during a period of slack employment and smaller additions to the labour force at the bottom, the proportion of lower-paid workers within the total force may decline and the average earnings may undergo an increase, again without significant change in wage rates.

11. The important point is how far these changes affect the *proportion* of the total workers who fall within the category, for so long as this proportion remains nearly unchanged, the trends of earnings in it will more or less represent the over-all trends. Now, during a period of stable prices and moderate increase in wage levels, no drastic change is likely to occur in the relative size of the category, or the proportion of workers in it, with workers at the ceiling of the category passing out of it at a normal rate and new entrants at the lower end of the wage scale replacing them, again at a rate which would ordinarily be a stable one. The relative size of the category may decline moderately if wage increases push out a larger number of workers at the upper end than the numbers of new entrants at the base; or the size may increase somewhat if, for some reasons—fiscal and monetary or non-monetary—the process of expansion of employment is accelerated. But a situation of rapidly rising prices with corresponding steep increases in money wages will reduce the relative size of the category, because the number of workers, with their earnings exceeding the highest point of the category, passing out of the category, increases sharply while the number of new entrants to the labour force remains relatively steady.

12. This then constitutes, in essence, the inherent process of under-statement of the money earnings of the worker-force in the range, viz., through leaving out of account the money earnings of the large numbers who rise above the range. When the *understated* money earnings are reflated by the consumer price index, the error of under-statement in money earnings enters the index of real earnings.

13. It has to be noted that even earlier painstaking researchers who had gone into the subject of real wages, did not overlook to state this limitation of the data computed under the Payment of Wages Act, but failed to analyse the character of the bias it introduces into real wage-measurement. This vitiated the conclusions of the analysis on the subject for the earlier viz., war period (when prices had been rising by leaps and bounds) even more seriously than for the more recent phase. In *Real Wages in India 1939—1950*, by S. A. Palekar, 1952, (pp. 23) the

author stated : “*Limitations of the Payment of Wages Act Data*. Finally, the limitations inherent in the Payment of Wages Act may be noted. It has already been mentioned that the Payment of Wages Act has somewhat restricted coverage inasmuch as it applies only to persons drawing wages or salaries not exceeding Rs. 200 per month.” In his later book on *Problems of Wage Policy for Economic Development*, 1962 the same data with the ‘inherent’ ‘limitations’ has been used, though for the period with which the book deals viz., 1950—55, the limitations are largely inoperative, for reasons which have been brought out in the above analysis.

14. The statistics of earnings within the category, of course, retain some usefulness for inter-industry and inter-state comparisons, though for adequate comparisons even for these purposes, the variation in the *proportion of low-paid-workers*—on which the statistics are silent—would remain a desideratum.

15. On the whole, thus, the caution sounded by the National Commission on Labour in regard to the nature of conclusions that could be drawn from the data quoted by them on the trend of real earnings, turns out, on closer examination, to be a critical and, indeed, conclusive flaw of the entire series of data on earning—money and real—that have been relied on by the Commission for their comments. It follows that many generalised statements made or conclusions of wide import given by the National Commission on Labour, fall to the ground. A few of these conclusions are as follows : “To sum up, we note that increases in money wages of industrial workers since independence have not been associated with a rise in real wages nor have real wage increases been commensurate with improvements in productivity” (Para 15.18). “On the whole, between 1952 and 1965 while per capita real income has improved, the real wages of workers, have with few exceptions, at best, not fallen”. (Para 15.14). “The net effect of the operation of the industrial disputes machinery on wages of factory workers has been that in 1965 the industrial workers at the lower levels were earning hardly a real wage corresponding to that of the year 1952.” (Para 15.14). As stated already, the National Commission on Labour did acknowledge the limitations of their conclusions, but apparently did not see that the limitations were serious enough not to permit of conclusions on the trend of real earnings of labour, stated as such, being formulated, in the absence of information on the crucial factor of the extent of the changing relative size of the category concerned, particularly during period of steep price and money-wage increases when this relative size would have been unavoidably shrinking.\*

\*Even with the very striking divergence in the rate of improvement of earnings of factory workers on the one hand and coal miners on the other, commencing in 1955 the year when the sharp uptrend in prices began, the Commission did not observe that one reason for this divergence could be the relative nature of the data used for factory workers and coal miners: Whereas the data on earnings of factory workers are limited to the average earnings of those who are getting less than Rs. 200 p.m. in the case of miners the average earnings cover workers in all ranges. The Commission itself brought out this fact under ‘Conclusions’ which mention that “Comparable data about the real earnings of workers in different sectors are not available”. However, the entire divergence in the course of the two series is ascribed to the fact that coal miners’ wages were low, to start with. There is no explanation given of why when the two series, viz., earnings of factory earners and of coal miners, moved coterminously up to 1955 [the index of real earnings of factory workers in 1955 (1951=100) was 123.7; the index of real earnings of coal miners in 1955 was 122.8], they should start to move strikingly apart only from 1956. It will be seen that at least part of the explanation for such divergence lies in : (a) the non-comparable nature of the two series, one relating to a limited category, the other to all workers; and (b) the effect of (a) being really felt when prices, and with them money-wages, started climbing rapidly from 1956; in terms of the process described in this note.

16. The table given by the Committee at the beginning of Chapter VI brings out that the period up to 1955 which was one of comparative price stability was also unusually good from the point of view of improvement of real earnings of all workers, there having occurred an advance in these of 20 per cent in a span of four years; the increase resulted almost equally from a moderate rise in money earnings and decline in consumer prices. It is one of the best periods for workers' real earnings in the era of planned development, being matched only by the period from 1959 to 1963, when increase in money earnings picked up pace following steady pressures on the cost of living. An equally striking conclusion yielded by the Committee's table is that in the period following 1963 when consumer prices started rising steeply in the wake of the inflationary trend, the real earnings of labour gave way, since money earnings were unable to keep pace with the rising cost of living. This reinforces the conclusion underlined by the experience of the early 'fifties regarding the importance or usefulness of an environment of stable prices for a real improvement in the standard of living of the worker population. Inflation has thus been demonstrated to have impaired the real earnings of labour and in the process would inevitably have accentuated economic inequality.

17. But perhaps another contribution no less notable than the above conclusion flowing from the above analysis might lie in its having helped to explode the myth built up to large proportions of the static or declining real wages of organised labour—a myth reared on the statistics under the Payment of Wages Act, 1936, which formed the basis of some labourious computations by a lone researcher in the early 'fifties and a decade later were pressed into service by the National Commission on Labour to form the basis of some wide-ranging conclusions emanating from a trend (viz., of static or declining real wages) which can now be seen to have been non-existent. Indeed, the ghost of static or declining real wages has continued to stalk the parlours of labour economic discussions and apparently to confuse at least some of the issues of policy ever since. As recently as last year in a Seminar on Income Policy and Industrial Relations held at New Delhi, the inaugural address by a celebrated economic authority\* quoted the same series of money and real wages and other related indices of real wages and productivity to which fuller reference has been made in the Report of the Bonus Review Committee. The series was quoted in support of the same doleful conclusion regarding the trend of real wages "during the last 25 years" based on the same partial statistics and on a spacious analysis of relationships between wages and productivity, on which the Committee's Report has commented. This note sets out the basis of a revision of long-held beliefs.

18. The picture of the gradual, though uneven, rise in the real wages of organised labour over the period of the plans (as reflected in Column 5 of the table at page 487) emerges as the central conclusion of the analysis in this note.

19. Again, in view of the importance of the matter a brief comment may not be out of place on a related subject in regard to the divergence disclosed in the degree, though not the direction, of the trend as between the Report of the Committee and the Report of the National Commission on Labour. This pertains to the decline observed in the post-war period in the ratio of wages to value-added-by-manufacture (V.A.M.). Here the Commission came to present, what appears on a closer view, to be an over-magnified downward trend in the ratio of wages to value-added-by-manufacture. The Commission observed thus : "The percentage of wages to the value added by manufacture, on the basis of the CMI data, shows a decline from about 50 per cent in the period 1949-50 to about 40 per cent in 1958. This trend seems to have continued in the subsequent years as revealed by the data from the ASI. For instance, wages, as a percentage of value added declined from about 40 per cent in 1960 to 36.5 in 1964, the latest year for which information is available. Even if the money value of benefits and privileges is taken into account, the conclusion remains the same, though the decline then becomes less sharp". (p. 224, Para 15.17). The table below brings out the trade as observed by the Commission :

*Percentage of Wages, Salaries and Benefits to value added by Manufacture*

Year	1	Percent-	Percent-	Percent-	Percent-
		age of wages to VAM	age of salaries to VAM	age of money values of benefits to VAM	age of wages, salaries and bene- fits to VAM
1949	.	53.3	10.6	1.1	65.0
1952	.	51.6	10.7	1.3	63.6
1955	.	41.8	10.6	2.7	55.1
1958	.	38.8	11.6	3.3	54.7
1960	.	39.6	11.4	4.7	55.7
1961	.	39.2	10.6	4.5	54.3
1962	.	39.6	11.9	4.7	56.2
1963	.	37.6	11.9	4.7	54.2
1964	.	36.5	13.7	5.1	55.3

20. The exaggeration of the actual decline as disclosed in the above account by the Commission results from the familiar error of selection of the base or initial year for commencement of the series or trend. The Preface to the Statistics of Selected Manufacturing Industries (Part I), which was the Companion Volume on which the Commission based their analysis and conclusions, states : "In order to have an idea of the trend, the examination has been undertaken at intervals of 3 years for the CMI and the

\*V. K. R. V. Rao : *Incomes Policy and Industrial Relations* in Indian Journal of Industrial Relations, July 1973.

years 1960—64 for the ASI". However, though the Volume on Statistics starts the series from 1946, which is also the base year for the index numbers given in the Volume, the initial year given in the Report is 1949, and the 2 years out of 9 between 1946 and 1954 for which the ratio of wages to V.A.M. is included in the series are 1949 and 1952. Now the apparently abnormal nature of the figures for these two years which came to be selected in terms of the basis of selection adopted, to indicate the trend, will be seen from the following data regarding ratio of wages to V.A.M. for nine years from 1946 to 1954 :

*Wages as percentage of value added by manufacture*

(Value in Rs. crores)

Year	Wages	V.A.M.	Percent-	
			age	4
1	2	3	4	1
1946	81.91	211.41	38.7	
1947	108.93	242.22	45.0	
1948	134.67	317.34	42.4	
1949	145.33	272.69	53.3	

1	2	3	4
1950	136.47	283.93	48.1
1951	153.47	347.21	44.2
1952	162.63	314.98	51.6
1953	164.64	333.98	49.3
1954	171.18	372.92	45.9

It will be clear from the above, that the selection of these two years to represent the early post-war period in the series, especially in the context of major post-war adjustments and year-by-year shifts in inter-sectoral relationships disclosed by these figures, appreciably magnifies the trend to a decline in this ratio.

21. I would not like to conclude this note without stating that though the statistical measurement of trends in real earnings of labour cannot be carried, on the basis of available data, beyond 1968, and is presented as such in Chapter VI of the Report, the recent steep inflationary trend gives an uneasy feeling, based on past experience, of a likely fresh decline in the real earnings of labour. This is different, however, from the understatement in earlier analyses, of the growth in real earnings of labour in the past, for which statistical data are, and were, available, which is the subject matter of this note.



## A NOTE EXPLAINING OUR APPROACH TO THE GENERAL AND SPECIFIC ISSUES RELAT- ING TO BONUS

By

Sarwashri N. S. Bhat and Harish Mahindra

At the outset, we wish to place on record our tribute to the Chairman, Dr. B. K. Madan, who brought to bear on our discussions and the drafting of the Report his wide knowledge of economic matters and critical analysis of statistical data. We are also thankful to all our colleagues on the Committee for giving us a patient hearing, even though our approach was different. Each of us, notwithstanding the difference in outlook and approach, we believe, are committed to creating more employment opportunities and the maintenance and improvement of real wages of the working class in general through a comprehensive development programme.

We very much regret the loss sustained by us in the untimely demise of one of our colleagues, Shri Satish Loomba, in the air crash at Palam on 31st May 1973. While he held strong views, his mind was open to rational propositions. It is unfortunate that the trade union to which he belonged—AITUC—did not see its way to suggest to Government another person to take Shri Satish Loomba's place.

It will be seen from the Report that on almost all important issues there is considerable divergence of opinion among the Members. Even though the Report is exhaustive and the different points of view of the Members have been recorded, we consider it necessary to append this Note outlining our approach to the issues and the basic considerations which have influenced us in making our recommendations. We believe that this will help the Government and others concerned to appreciate our line of reasoning.

This Note is divided into five sections. The perspectives against which, we feel, the issues relating to bonus should be viewed and considered are given in Section I. Section II gives our assessment of the current economic outlook, while some of the specific issues are highlighted and discussed in Section III. The special problems of some establishments and industries are set out in Section IV. Section V brings out the broad conclusions of our Report.

### Section I—Our approach to the Question of Bonus

1.1 Before we express our views on the several recommendations of the Committee with which we are not in complete agreement, we wish first briefly to highlight the perspective against which, we feel, the issues relating to bonus should be viewed and considered. This is because, the payment of bonus is

basically an economic issue, and as such it needs consideration in the context of prevailing economic and social climate and the policies of the state in these spheres.

1.2 Since the inception of economic planning in India in 1951, our country has made substantial advances in every field, particularly in agriculture, industry, irrigation, power, transport and communication. This progress has been made possible through the initiative of Government, public sector as well as private entrepreneurs. In spite of such progress, it will, however, be conceded that several problems still remain unresolved. We have not been able to make a dent on the serious problems of poverty and unemployment or raise significantly the per capita income. This indicates that there has been a flaw in our planning which may be due to many factors, the important one being in the ordering of economic activity.

1.3 As is well known we have accepted a mixed economy under which the private sector as well as the State-controlled public sector contribute to the development. While the private sector has been subject to rigorous controls and regulations, the programme of investment and development in the public sector has not been subject to such strict controls. It is, however, notable that in both sectors organised labour has derived substantial benefits. In fact, the authorities, in some instances, have aided and supported labour to secure benefits from the private sector, but this had its inevitable reflection in the demands made by labour in the public sector also. The pursuit by Government of two different policies for private and public sectors could not continue unchallenged indefinitely when one policy was more beneficial to labour than the other. Government now faces vociferous demands to apply the more favourable private sector policy to both.

1.4 The past experience in planning has been that it is illogical and unrealistic to pursue different policies for public and private sector labour to realise the goal of social welfare under the regime of mixed economy. What is needed is discipline in the entire economic field covering not only the private enterprises and public enterprises, but also the expenditure of Government, with a view to securing optimum utilisation of the resources of the country. As an essential corollary, remuneration to workers and to capital should be related to higher production and productivity. In our country, the paucity of

capital is an important factor which hinders promotion of both development and employment. If such scarce capital resources are diverted to pay increased emoluments to workers, it will adversely affect not only investment but the creation of new employment. Secondly, increases in emoluments of workers would give rise to inflationary spiral, particularly in view of the inelasticity of supply of agricultural commodities. Moreover, unless wage increases are related to production or productivity, the disparity in the income of workers in the organised and the unorganised sectors will grow and have several adverse effects.

1.5 From the above discussion, it will be clear that various issues relating to bonus need to be considered in the context of the state of our economy and our avowed social and economic goals viz., removal of poverty and attainment of self-reliance. We hope that when taking decisions on the recommendations of the Committee, Government will take into account the impact of the recommendations on all sectors of the economy. Industry whether in the public or private sector or Government is one integral whole and any development in the one will necessarily have repercussions on the other.

## Section II—Economic Outlook

2.1 In considering the various issues relating to bonus, we are obliged to take into account the current economic outlook and the recent measures taken by Government to combat inflation. We have also been enjoined by the terms of reference "to make a careful assessment of the likely impact of our recommendations on our national economy before finalising them". All economic indicators lead to the indisputable fact that the economic prospect has never since independence been so gloomy.

2.2 The Committee was appointed in April 1972. Even while the Committee was at work, for reaching changes effecting our economy have taken place. Following the oil crisis, a number of issues have come to the fore, the most important of them being the phenomenal and unprecedented pressure of inflation which is threatening to disrupt not only our developmental programmes, but also the entire socio-economic fabric. There has been a searching re-examination of our policies and projects in both official and non-official quarters. In July 1974—about ten weeks before the submission of our report—Government initiated a series of measures such as limiting dividends, restraining the full payment of additional dearness allowances and wages to the employees and enforcing compulsory deposits by those whose income is Rs. 15,000 or more per annum. These measures have an important and intimate bearing on the issues before us. If we do not take them into account in considering the issues before us, we would be dealing more with conditions that obtained in the past and less with the reality of the present situation.

2.3 For over two years now, our economy has been on the threshold of a virtual crisis. Since June 1972 wholesale prices have risen by 55%, income

distribution has been distorted, the number of unemployed recorded on live registers of employment exchanges has grown from 5.8 million to 8.2 million. It is, however, well known that the number of unemployed is far more than what is registered by the unemployment exchanges and various estimates put the unemployment figure at more than 20 million. The balance of trade which showed a surplus of Rs. 164 crores in 1972-73 turned to a deficit of Rs. 225 crores in 1973-74 with the foreign exchange reserves in 1973-74 declining by Rs. 117 crores as against a marginal rise of Rs. 3 crores in 1972-73.

2.4 During the current year alone, to date, additional tax effort has been as high as Rs. 719 crores (inclusive of the Railway Budget). An analysis of the supplementary demands placed before Parliament by the Union Finance Minister shows that after allowing for the block out of Rs. 200 crores on plan and non-plan accounts there will still be a net increase in Government spending of as much as Rs. 265 crores. This must result in an increase in the uncovered deficit for the year 1974-75 from Rs. 125 crores as originally estimated to Rs. 268 crores even after taking into account the additional revenues realised from the new taxes levied in the Interim Budget. The Railway Budget even after taking credit for the extra revenues expected from the revised passenger fares and freight rates is likely to show a gap of Rs. 109 crores without taking into account possible increases in dearness allowance.

### Inflation

2.5 Industry continues to suffer from power shortages, transport bottlenecks, paucity of critical raw materials and labour unrest. In the calendar year 1973, according to the Annual Report of the Reserve Bank of India, there was virtual stagnation in industrial production. Nearly 60% of industry showed decline in production against 10% in 1972. The Bank rate has been raised from 7% to 9%, and the credit squeeze, if anything, has become more severe. Government are anxious to bring about price stabilisation in the first instance, so as to contain the inflationary spiral. As part of the price stabilisation programme, Government have already initiated measures to restrain demand by partially immobilising wages, incomes and dividends. At this stage, we wish to emphasise that while management of money supply is important, the need for taking simultaneous action to increase production and improve productivity is no less urgent. As pointed out by the Reserve Bank, the situation is such that, unless adequate steps are taken, there is a danger of further accentuation of inflationary tendencies.

2.6 Inflation, as we see it now in India, is the result of an excessive increase in the active money supply in relation to the goods and services available. While steps to achieve substantial increase in the supply of goods and services and reduction in unproductive and uneconomic expenditure of Government which leads to price-raising taxes should receive

urgent consideration of Government, measures to restrain accretions to spendable income cannot be put off or ignored. The issues relating to bonus must be considered bearing in mind the remedial measures that should be taken to combat inflation.

2.7 Our plea to evaluate the issues relating to bonus against this background of acute inflationary pressures should be appreciated and given due weight while considering the changes to the Payment of Bonus Act. Bonus is no longer a modest payment. The revision of wages from time to time and the system of direct link between the consumer price index and dearness allowance have substantially swelled the amounts paid as bonus year after year. Any further increase in bonus can only be granted from the amounts needed for dividends and/or rehabilitation and modernisation of industry. The recent amendment to Section 205 of the Companies Act compelling the transfer to reserves of an amount not exceeding 10% of the balance of gross profits (after deducting depreciation) before declaring dividends is an indication of the Government desire to prevent excessive distribution of profits. If there is a restraint on dividend payments to shareholders there is an equal need to restrain bonus payments to workers as they do get compensation for their contribution to the successful operation of the industry.

2.8 The rate of capital formation in the economy is already at a low ebb as pointed out in Chapter V of the Report. The problem now is how to persuade the investors to risk their investible funds in equity capital when they stand to gain much more through loaning out the funds at the current high rates of interest. Unless investment in industry is made sufficiently attractive, investible funds will be diverted from manufacturing and other productive business to speculative trade, hoarding or other unproductive and anti-social activities. If available funds are distributed excessively by way of additional bonus, demand for wage-goods will increase without any possibility of the demand being fully met, thereby pushing up prices in a market with inadequate supplies. Furthermore, any dilution of the present bonus scheme and provision for higher bonus without any relation to production or productivity is bound to reinforce the demand for grant of bonus to workers in all sectors of the economy. This is the danger to which we cannot afford to expose the economy.

#### *Varying concepts of bonus*

2.9 We now proceed to discuss the various concepts of bonus as it is vital to a full comprehension of the entire problem. It will also explain why we have differed with our colleagues on almost all important issues. Indeed, we believe that the differing stands taken by members of the Committee on all the important issues stem as much from conceptual differences as from individual experiences and preferences.

2.10 Even though bonus payment in India has a long history and the Payment of Bonus Act was passed in 1965, the term 'bonus' as such has not so far

been defined. The absence of a clear definition of bonus has encouraged different practices and theories over the years. We feel that the true nature and character of bonus will be better appreciated if we first examine one of the popular theories that has been put forward.

#### *Bonus not a deferred wage*

2.11 Workers, as any other economic group, are naturally interested in improving their earnings. Their leaders have been propagating the claim that their earnings must be improved to the level of living wage, fair wages, need-based minimum wage etc. We do not propose to go into this question, but we must controvert and deal with the theory that bonus is a deferred wage, and that the validity for bonus payment lies in the fact that workers are not getting the wages due to them.

2.12 Wages vary from one sector of the economy to another and even from one undertaking to another in the same sector. In the absence of a national wage policy, the differences in wages are often substantial. Assuming that bonus is paid at a given rate to all the workers, the differences in wages that obtain will not in any way be reduced. On the contrary they will be increased. Minimum bonus at a fixed rate cannot therefore be used as an instrument either to reduce wage differentials or to improve wages on any rational basis. It would therefore be illogical and dangerous to treat bonus as a supplement to wages.

2.13 On the basis that bonus is a supplementary wage, it has been argued that there is no reason at all as to why everyone, wherever he is employed, should not receive it. The demand for bonus payment even to Government employees arises from such a stand. Similarly, the payment of minimum bonus is an enterprise which incurs losses is also attempted to be justified. It is time everyone realised the dangerous consequences of accepting such specious theories and arguments.

2.14 The implications of these arguments are clear. Once a benefit is conferred on the workers, it is not possible either to withdraw or restrict it. Industry's experience on dearness allowance is well known. Trade unions have been emboldened to argue without hesitation that variable dearness allowance, linked to consumer price index, is free to vary only upwards but not downwards if the indices were to fall. In the case of bonus also, apart from burdening the units incurring losses with minimum bonus, there have been demands even in such units for a bonus over the minimum bonus and some units have been forced to yield to such demands. When the Payment of Bonus Act provided for a minimum bonus at 4 per cent, there was a clamour for increasing it to 8½ per cent. When Government increased the rate of minimum bonus to 8½ per cent some trade unions have gone on record that the rate of minimum bonus should be progressively increased, and they

would not even accept the need for a ceiling on bonus. Our colleague, Shri Mahesh Desai, has also supported this stand.

### **Minimum Bonus**

2.15 The payment of minimum bonus even in units incurring losses is conceptually wrong. There is no economic or moral justification to treat bonus as a fall back wage. It is unfortunate that the Committee was persuaded in the first place to consider the issue of minimum bonus in isolation, disregarding the other aspects of bonus legislation. The final Report suggests that minimum bonus at 8½ per cent should be accepted as inevitable, solely on the ground that this rate has been accepted by Government by annual amendments to the Bonus Act since the submission of the interim Reports.

2.16 In our opinion, the Committee should have considered the entire issue *de novo* in the context of the current acute pressures on our economy. We believe that the *ad hoc* annual amendments to the Bonus Act during the last three years to increase the rate of minimum bonus from 4 per cent to 8½ per cent indicate that Government have left the question open and that they are not entirely happy with the situation. We owe it to the public and ourselves to make our position clear on this important question, especially because in the interim Report we had gone out of our way, in a spirit of accommodation, to support the Chairman and the independent economist member who recommended an increase in the rate of minimum bonus from 4 per cent to 5 per cent for units which do not show a net profit as defined in the interim Report. We realised even then that this increase would only inflate the losses of units already suffering losses. Nevertheless, we agreed to a higher rate of minimum bonus in the hope that a unanimous recommendation would emerge. However, subsequent events belied our hope. In our interim Report, all of us acknowledged that the interim recommendation represented the utmost response which the industry and the economy could be called upon to make in the current state of the country's economy. Despite a further deterioration of the economy since then, we do not see how the increase in the rate of minimum bonus to 8½ per cent, recommended by our colleagues, can be justified.

2.17 We must candidly observe that the Government committed a serious mistake in the first instance in increasing the rate of minimum bonus to 8½ per cent relying on one of the interim Reports and without any regard to the recommendations of the other members including the Chairman and the independent economist member. We still hope that the original error will be rectified if only to ensure that further damage is not done to the economy.

2.18 Our experience in this respect has provided a salutary lesson. The minimum bonus, whatever the rate, is invariably the starting point for further demands by labour. There are many instances of units having been compelled to pay more than the minimum bonus, whether it was 4 per cent or 8½

per cent despite their having suffered a loss. It is extremely sad to observe that this increase has often been secured by the intervention and at the instance of the authorities themselves. If the area for pressure is enlarged to cover all undertakings, including departmental undertakings and those employed in government administration, the consequences, can easily be visualised. Political parties other than that in power can always make capital out of such a situation. Politics apart, there is no economic justification whatsoever to look upon minimum bonus as a supplement to wages. As already observed, a claim for wage increase is a different issue and must be looked at as such, to be taken care of in appropriate cases by wage boards, pay commissions etc.

### **Profit bonus not an incentive to Production or Productivity**

2.19 Our experience is that profit bonus has neither stimulated an increased supply of goods and services nor reduced industrial unrest. On the contrary the number of man days lost on account of bonus disputes is quite high. Their impact on production is in fact more than what the official figures indicate. The eve of the Puja holidays in the Eastern region and of Diwali in the rest of the country is marked by go slow, work stoppages, demonstrations etc. often involving violence. The man days lost due to all these causes are not officially recorded for statistical purposes. The annual bonus by and large became a cause for disruption of work rather than an incentive for production. This is principally due to the provision in the Payment of Bonus Act which has been taken advantage of by labour to extract bonus in excess of amounts due under the formula in the Act. We will refer to this matter again when discussing Section 34(3) of the Payment of Bonus Act.

2.20 Research studies over the years, as also experience in this country and abroad, have shown that monetary payment of an incentive acts as such, only under the following conditions :

- (a) There is reasonable stability in the supply of raw materials and in production processes so as to ensure that the worker through his effort can increase production or productivity unimpaired by extraneous factors over which he has no control.
- (b) The incentive scheme is based on work study and is supplemented by wage and salary administration based on job evaluation.
- (c) Work groups for purposes of bonus calculations are as small and as homogenous as possible, so as to ensure that the effort of the group is reflected in bonus earnings, and
- (d) Bonus payments are made in sufficient frequency so that work groups can immediately correlate their bonus earnings with

their effort in the immediate past. In many advanced countries weekly bonus payments are considered to be ideal.

2.24 The Bonus Act providing for annual bonus covers large numbers of workers in a wide variety of industrial and commercial undertakings. It is therefore understandable that almost all the workers' and the employers' representatives in their written statements as well as in the evidence before the Committee stated that it would not be possible to evolve a single formula linking bonus to production/productivity for all industries. But there is no reason why each unit or a particular industry, wherever possible, cannot and should not evolve a formula for itself linking bonus to production or productivity. Indeed we would strongly urge that trade unions and employers sit together and evolve such production oriented bonus schemes, as in today's circumstances larger production of goods and an efficient public distribution system ought to be the most important national objectives. Only when bonus comes out of the gains of improved production or efficiency will it act as an incentive to production or efficiency.

#### *Our concept of Bonus*

2.22 Workers are paid wages not merely to produce the planned output, but also to produce it economically. Wages are thus an adequate return for the workers' contribution to the successful operation of the industry. Logically, there is, therefore, no ground for any further payment to the workers out of profits.

2.23 As stated before, annual bonus is not a deferred wage nor does it act as an incentive to production or efficiency. The payment of minimum bonus regardless of profit or loss cannot therefore be justified on any rational basis.

2.24 Our concept of bonus is that it should be a share in the gains of productivity or efficiency and not a share in the profits. There is a direct and close link between the effort of workers and productivity or efficiency of the undertaking, whereas the connection between profit and the contribution of workers is remote. It is well-known that profits result from a multiplicity of favourable factors such as, raw material supplies, maintenance of machinery, sales promotion and marketing techniques, export possibilities and prices realised. It is illogical and unfair to base payment of bonus on such widely fluctuating factors over which workers have little control. The sooner it is realised that bonus should come out of increased efficiency and productivity rather than the uncertain element of profit, the better would be its impact on the economy. We would urge Government to give serious consideration to this recommendation which is calculated to promote social justice with economic growth.

2.25 The confusion and complications created by wrong concepts of bonus have been lucidly explained by Mr. Dandekar in his minute of dissent to the

Report of the Bonus Commission. He has rightly pointed out: "I must regrettfully express my considered opinion that to continue indefinitely with the 'profit bonus' would, in the long run, be unwise alike for the employees, the employers and the consumers, i.e. for the country as a whole. The practice of giving an annual profit 'bonus' to workmen, when so entrenched as to become a 'justiciable right', is a contradiction in terms. It wholly ignores the production and productivity aspects of this country's industrial problem; in a developing economy, it puts a premium on those, both employers and employees, who shirk hard work; and it thrives entirely at the cost of the consumer".

2.26 While advocating the linking of bonus to productivity, Mr. Dandekar appreciated the difficulty of evolving any general scheme for substantially higher earnings for workmen linked annually to production or productivity. Nevertheless, he has observed : "They (the difficulties) are insurmountable if what is sought in such an endeavour is to find one single formula covering all units in all industries, or even all units in a given industry, or even all units in a given industry in a specific region. But this is so entirely because of the absurdity of such an approach, and not because of any inherent impossibility in working out *specific Production (or Productivity) Incentive Scheme Unitwise* in most industries. But unfortunately this is not what many employers and most workmen seem to want. Many employers express a preference for an 'elastic wage structure', which is a lazy man's reason for preferring the annual 'profit bonus' scheme; and the generality of workmen like to have something coming in at the end of the year for which no specific (direct) exertion is required of them, which again leads to a preference for the annual profit bonus".

2.27 Referring to annual wrangles about profit bonus, Mr. Dandekar observed : "I am convinced that so long as we in this country persist with annual wrangles about profit bonus, on the one hand, and periodical wrangles about wages and dearness allowances, etc., on the other—neither of them related in any noticeable or specific manner to improving productivity (or even production) as such—the progress in the *real earnings of workmen is bound to be slow*. A powerful upward surge in national income, employment, wages and profits, and in *per capita* income, certainly does not lie in that direction".

2.28 We fully subscribe to the views of Mr. Dandekar. Nevertheless, we are conscious that profit bonus has a historical or customary basis and that it cannot be abandoned overnight. If profit bonus has to be continued for the time being on historical grounds it should come out of profits after leaving adequate funds with industry to meet the needs of rehabilitation, modernisation and a fair return on share-holders investment so as to maintain and improve the health of the industry and attract investible funds to the industrial sector. Furthermore, the payment of bonus should be so regulated as not to aggravate the existing wage disparities in various sectors of the economy and create privileged groups among the workers themselves.

**Payment of bonus under a formula different from that prescribed in the Bonus Act**

2.29 Our general observations will not be complete unless we refer to Section 34(3) of the Bonus Act which provides for the grant of bonus under a formula which is different from that prescribed in the Act. This provision was intended to enable the parties to devise a new formula if for any genuine reason the formula in the Act was found unworkable. However, it has produced the unintended result of defeating the basic objective of the Act, namely, to reduce the annual strife on bonus. The trade union movement in our country, which is unfortunately riven by inter-union and intra-union rivalry, fell back upon this Section to make competitive bids to obtain progressively larger amount of bonus. We have not come across any case where, true to the spirit of Section 34(3), a really new formula was devised by parties, but we are aware of innumerable cases where employers were forced to pay more than the amount due under the Act either on an *ad hoc* basis or by altering some of the figures in the Act formula. Employers at the unit and even industry levels, threatened by strikes and violence and finding themselves in a helpless position have had to submit to the pressures of labour as well as Governments. The Act, far from reducing the number of disputes, has only increased them and the cause, in our view, is the existence of Section 34(3). The Bonus Act legislation should therefore be amended to ensure industrial peace, which is the basic objective of the legislation. This can only be done by removing from the statute Section 34(3) which is the root cause of most bonus disputes.

2.30 We are happy that all members of the Committee, except two representing labour interest, have fully recognised the force of these arguments and have recommended the deletion of Section 34(3). If the minority opinion is against the deletion, we cannot help feeling that the opposition is not as much due to lack of understanding of our point of view as their desire to continue to keep bonus a bargainable issue and use it as a lever to get for the workers more than their legitimate share of profits—even where there are no profits.

**Section III—Our comments on specific issues**

3.1 We now proceed to give our comments on some of the proposals/recommendations made in the final Report in the order of the chapters in that Report.

**Chapter VII—Minimum Bonus—Absolute Minimum**

3.2 Minimum bonus : As stated earlier, there is considerable confusion over minimum bonus. In principle we are opposed to any bonus which has no relation to profit, productivity or efficiency. However, we recognise that in the prevailing circumstances it may not be feasible to abandon the minimum bonus overnight although the ultimate aim should be to do so. Taking all relevant factors into account there is no justification for increasing the rate of minimum bonus beyond 4 per cent. We consider that the

interim increase in the rate of minimum bonus to 8½% granted annually for three years should not be adopted as a permanent measure in the statute. We therefore recommend that the rate of minimum bonus should be left at 4 per cent and steps initiated by Government to abolish the minimum bonus and link all bonus payments to production/productivity or efficiency at the unit level or where possible at industry level.

3.3 Absolute Minimum : Consistent with our recommendation on the rate of minimum bonus we do not recommend any increase in the absolute minimum. Despite our recommendation even if the rate of minimum bonus is raised to 8½ per cent there is no ground whatever for increasing the absolute minimum from Rs. 80 and Rs. 50 which the Government themselves fixed while amending the Act in 1972, 1973 and 1974 and on which there was complete unanimity in the interim Report.

3.4 In their interim Report our colleagues Sarvashri R. P. Billimoria, Mahesh Desai and G. Ramanujan while recommending an increase in the rate of minimum bonus from 4 per cent to 8½ per cent had said that "the absolute figures mentioned in Section 10 of the Act should also be consequently raised to Rs. 80 and Rs. 50 respectively for those above and below the age of 15". They further said that their interim recommendation was their final recommendation so far as the quantum of minimum bonus is concerned. We are unable to understand why they have revised upwards their "final recommendation". We are equally at a loss to understand how the Chairman and Dr. Punekar who recommended in the interim Report the corresponding (to 8½ per cent) absolute figures of minimum bonus of Rs. 80 and Rs. 50 for persons above and below the age of fifteen respectively, have now recommended higher figures even after the Government had accepted and acted on the earlier recommendation for three years. If the basis of their present recommendation to increase the minimum bonus rate to 8½ per cent is the government action for three years, by the same logic they should have adhered to the absolute figures for minimum bonus also which was accepted by Government for the past three years. What is most significant is that in relation to the minimum bonus rate of 8½ per cent there was complete unanimity in the interim Report on the absolute figures and Government acted on these figures for three years. The deviation by all our colleagues from the earlier unanimous recommendation on this specific point remains unexplained.

**Chapter IX—Development Rebate**

3.5 Some of our colleagues have opposed the deduction of Development Rebate for purposes of computation of bonus. Others have noted that Development Rebate might lapse after its extension for a period subject to certain conditions in terms of the last Budget. However, they have not suggested any alternative to Development Rebate when it lapses. Our view is different.

3.6 As in other countries in India also, in a period of rising prices a system of giving an allowance in addition to depreciation came into vogue. While other countries are continuing this system it would be illogical to scrap the Development Rebate when costs of indigenous as well as imported machinery are rising much more sharply in India.

3.7 Although Government have now provided for initial depreciation, this is not really an alternative to Development Rebate for two reasons. Firstly, the initial depreciation is limited only to a few selected industries. Secondly, and more importantly, unlike the Development Rebate, the initial depreciation does not enable the industry to retain from the gross profits anything more than the original cost of the capital block. We, therefore, feel that it is absolutely necessary to provide an alternative in the form of rehabilitation allowance in lieu of the Development Rebate if the plant and equipment are to be kept in good condition by rehabilitation and modernisation.

3.8 In this context note must be taken of the fact that by the amendment to the Bonus Act in 1969, even the full benefit of the tax rebate on bonus paid, which was intended to be retained by the industry when the Act was passed in 1965, has been withdrawn. The statute, as it stands, makes it obligatory to pay to labour 60 or 67 per cent of the tax rebate on bonus also in the case of Indian and foreign companies respectively. We would like to recall that the Committee on Profit Sharing in its Report submitted in 1948 had suggested the provision of reserves for repairs and maintenance, emergencies, rehabilitation and modernisation of plant and equipment and reasonable expansion in the computation of profit sharing bonus. The building up of reserves must be regarded as an obligation on the part of industry as is clear from the addition of sub-section 2A to Section 205 of the Companies Act. This obligation has become even more compelling in a highly inflationary period. If reserves are not built up, many establishments could very easily pass on to the sick list with deleterious consequences for all the workers.

3.9 Our recommendation for Rehabilitation Allowance gains even greater validity in the context of inflation which has become a global phenomenon and which is not likely to abate in the near future. Not only has the indigenous cost of machinery gone up, and will go up further from all accounts, the same trend is visible in respect of prices of imported machinery also. The trend in average wholesale price index of machinery (other than electrical) is given in the following table to illustrate our estimate of price trends.

Year	1961/1962=100
1	2
1965-66 . . . . .	115
1966-67 . . . . .	122
1967-68 . . . . .	127
1968-69 . . . . .	130

1	2
1969-70 . . . . .	134
1970-71 . . . . .	149
1971-72 . . . . .	160
1972-73 . . . . .	169
1973-74 . . . . .	192
June 1974 . . . . .	253

Reserve Bank of India Bulletin—June, 1974.

3.10 These figures clearly support our recommendation to augment the reserves for rehabilitation and modernisation. Reserves benefit not only the shareholders but also all other parties connected with the successful operations of the undertaking. In most cases reserves permit increased investment per worker which enables the quantum of wages and bonus to be raised on account of increased investment leading to increased productivity and profitability. In addition, reserves help in reducing the burden of interest which would have been paid on borrowings had it not been for the use of the reserves. The savings thereby effected will help in increasing the allocable surplus for distribution as bonus.

#### Chapter IX—Rate of return on Capital

3.11 The formula, as it stands, provides for a return of 8.5 per cent on paid up equity capital and 6 per cent on reserves except in the case of Banks and foreign companies. In our view, distinction between equity capital and reserves, or in the rates of return on them should never have been made. Both the paid up capital and retained profits, i.e. reserves, belong to the shareholders and they are used in business without distinction. Consequently, there is no valid reason for giving separate treatment to paid up capital and reserves when providing a rate of return.

3.12 The Chairman, Shri Billimoria and Dr. Punekar have appreciated the force of our reasoning. They have also recognised the fact of a sharp increase in the interest rate pattern in general since the rates of return were fixed in 1965. However, they favour the continuance of the distinction between capital and reserves and the existing rates of return thereon on the ground that the distinction has been recognised for a long time and that any lowering of the rates of return would seriously impair the basis of the working of the formula. They have not given any reason for not increasing the rates of return even after acknowledging the steep rise in the interest rates. The arguments against any decrease in the rate of return as suggested by two of our colleagues have been set out in the final report and we agree with those arguments, but we would add that those arguments, on the other hand, fully support our recommendation for an increase in the rate of return.

3.13 For our part, we cannot fail to take a positive view in the light of changes that have taken place in the pattern of interest rates. When the Bonus Commission made its report, the Bank rate was 4 per cent which has gone up to 9 per cent in July 1974. Similarly, the advance rate of the State Bank of India and minimum lending rate of banks which was 4.5 per cent has been raised to 12.5 per cent. Further, in the Selective Credit Control Scheme of the Reserve Bank of India, the effective lending rate has been fixed at 14 per cent for mills and factories, and at 15 per cent for traders. In actual practice, the effective lending rate is anywhere between 18 and 22 per cent. The rates of interest on bank deposits have also gone up to 9 per cent for deposits maturing between 3 and 5 years, and 10 per cent on deposits maturing after 5 years. Other increases made in July 1974 were :

1. The minimum discount rate on bill finance for drawers bills from 9.5% to 11%.
2. The rate on drawees' bills from 11% to 12.5%.
3. The expert credit rate from 9% to 11.5% and
4. Rate on food procurement credit from 9% to 12% for Food Corporation, for State Governments and their agencies.

3.14 In the face of these sharp changes it is unrealistic for anyone to contend that the rate of return on the total shareholders' funds, that is, paid up capital plus reserves, should not be increased. We consider that it should be increased to at least 12 per cent on the total shareholders' funds from the present level of 8.5 per cent on equity and 6 per cent on reserves. This increase is justified and does not really go against the interest of the workers because they continue to get the minimum bonus even when the shareholders do not get a dividend and even the minimum bonus amount keeps increasing year after year due to the rise in wages and dearness allowance. The rate of 12 per cent is reasonable in the context of the current interest pattern—if anything this rate is too low.

#### *Chapter IX—Division of available surplus*

3.15 On this issue too, there is sharp divergence among our colleagues. The views range from the continuation of the present ratio of 60:40 between labour and industry to the abandonment of any formula with no ceiling on bonus. In between, a view has been expressed that the available surplus may be divided in the ratio of 75:25 between labour and industry. Our recommendation is that the ratio should be altered to increase the share of the industry for the following reasons:

- (a) Many establishments are finding it extremely difficult to undertake even normal rehabilitation, let alone modernisation or expansion, mainly on account of inadequacy of finance to meet the ever increasing costs of replacement. We have referred to the sharp rise in the cost of machinery. Added to the

rise in the cost of replacement, industries are facing the problem of losing the benefit of development rebate after 31st May 1975.

- (b) The quantum of minimum bonus even at 4 per cent has been constantly increasing mainly as a result of sharp increases in dearness allowance and with the rate going up to 8.1/3 per cent the burden has more than doubled in the last three years resulting in the depletion of resources required for rehabilitation.

3.16 For these reasons, it is our considered view that in dividing the available surplus at least 50% thereof should be left with the industry. In the absence of any reason we are unable to appreciate the view of the Chairman, Dr. Punekar and Shri Billimoria that the present proportion of division is, in general, "a very good one".

#### *Chapter X—Maximum Bonus*

3.17 On this issue, as on the issue relating to minimum bonus, our colleagues hold sharply divergent views. Apart from the extreme stand of Shri Mahesh Desai that there should be no ceiling on bonus, the Chairman, Shri Ramanujam, Shri Billimoria and Dr. Punekar have recommended without assigning any reason that the present maximum rate be raised from 20 per cent to 25 per cent. Furthermore, views have also differed in regard to the treatment of the extra bonus payable to those whose monthly salary exceeds Rs. 1,000 per month. Some hold that this extra payment should not be in cash, but should be deposited in a special account to be paid after five years while others recommend the payment in cash.

3.18 The object of fixing a ceiling on bonus was to avoid wide disparities in bonus payments among workers in different units in the same industry or in the same area as such disparities among different units create industrial discontent and the emergency of privileged groups. This was the reason given originally by the Labour Appellate Tribunal and later accepted by the Bonus Commission. The argument that if the minimum bonus rate is raised the maximum rate also should go up is fallacious because the minimum according to the Bonus Commission is intended to avoid wide fluctuations in bonus over the years due to sharp variations in profits in the same unit and to ensure a degree of stability in that unit by means of the "set on" and "set off" provisions, while the object of the maximum is to avoid disparities in different units in the same industry or in the same area.

3.19 In fixing a maximum the disparities envisaged and sought to be avoided were among different units whereas in fixing the minimum the stability sought to be achieved was in the same unit. If this distinction is appreciated the fallacy of the argument based on a relation between the minimum and the maximum rates becomes obvious.

3.20 In our view if the rate of minimum bonus is raised to stabilise the bonus at a higher level the need to have more funds for "set on", which is in reality a "bonus equilisation fund", becomes compelling, but would be almost impossible to achieve if the maximum is also raised. The realistic way to achieve a higher minimum is by reducing the maximum and providing greater opportunity to industry to put the required amount to the "set on" provision in prosperous years.

3.21 There is another angle from which the question relating to maximum bonus should be viewed. Those who are eligible for maximum bonus are relatively the more prosperous class in an industry or area when compared with those who are eligible for the minimum bonus or something less than the maximum. We cannot also overlook the fact that there are many workers in agriculture and other sectors who do not get any bonus at all. What justification can there be to put more money, especially at the present juncture, into the hands of those who are relatively better off? Such a recommendation is, in our view, against the national interest and contrary to the Government policy of curbing demand, especially for wage goods.

3.22 Two of our colleagues have recommended that bonus in excess of 20 per cent should not be paid in cash to those whose salary is above Rs. 1,000 per mensem but should be kept in deposit for 5 years. They have, however, failed to appreciate that the bulk of the bonus goes to those whose salary or wage is less than Rs. 1,000 per mensem. What they have sought to immobilise is therefore, only a very small fraction of the additional bonus they have recommended. This will not in any way help the economy, but will only cause unhappiness to those technicians and managerial staff whose after tax income is not in excess of their legitimate needs and whose contribution to the industry is admittedly significant. Furthermore, if this recommendation is accepted by Government the deposit to be made will be the gross bonus over 20 per cent, but the employees will have to pay tax every year on the amount deposited but not received. This will mean that the employees will get in cash less than 20 per cent bonus—a result not envisaged by the authors. In any event the Bonus Act cannot legislate for those not covered by the Act.

3.23 It is our considered view that if the minimum is raised to 8½ per cent, on grounds of expediency, notwithstanding all the logical arguments against it, the maximum bonus rate should be reduced to 16%. If the minimum rate is left at 4 per cent the maximum rate may remain unchanged at 20 per cent.

#### *Chapter XII—Bonus Holiday*

3.24 Three of our colleagues have recommended that new establishments instead of paying bonus, as at present, from the sixth year following the year in which the business of selling the goods or rendering

the service commences, should commence paying bonus from the fourth year unless in any accounting year the employer derives profits, in which case, the bonus will become immediately payable for that year. We fail to understand why the period of bonus holiday should be reduced, especially when, in principle, such a holiday is conceded. The teething troubles of new enterprises have greatly increased since the Bonus Act was passed in 1965 due to shortages of power, raw materials, credit squeeze, inflation etc. Consequently, the least that should be done to encourage and help new establishments is to leave unamended the existing provision which provides for payment of bonus in the event the new establishment making a profit before the bonus holiday ends. If a new establishment does not make a profit in three years there is no logic in saddling it with an obligation to pay bonus by increasing its losses.

#### *Chapters XIV, XVII, XX, XXI, XXII—Coverage*

3.25 It is an emotionally surcharged demand of the trade unions that the Bonus Act should cover all workers wherever employer-employee relation exists. This stems from the theory that bonus is a deferred wage. We have already explained at length in Section II our position on this point. We propose here to highlight the difficulties that will be faced by the small establishments on the one hand and the entire national economy on the other if the coverage is extended.

3.26 At present, the Act covers every factory and every other establishment in which 20 or more persons are employed. Many small establishments, employing less than 20 persons, especially in the unorganised sector and family enterprises running mainly with the help of family members, would find themselves in an extremely difficult position if the Act is extended to them. The activities of these small establishments are widely different, and in all cases they will not be in a position to comply with the financial and other rigours of the Bonus Act. We, therefore, consider that the present scope of the application of the Act should be left as it is.

3.27 We come now to the larger issue of deleting Section 32 which specifically excludes the application of the Act to certain classes of employees. Such deletion is recommended by those who are for a universal coverage of the Act. The Bonus Commission, after considerable deliberation, recommended the exclusions set out in Section 32. We are in agreement with the rationale behind Section 32.

3.28 To appreciate the implications of the demand for wider coverage we may examine what it would mean if a minimum bonus of 8½ per cent is to be paid to the Central and State Government employees, including P&T Department, Railways (administrative plus operating staff) and departmentally run undertakings. The following table based on the revised estimates of the Central Budget for 1973-74 and

estimates in respect of State Governments and local bodies, etc. speaks for itself :

Wages & Salaries of Government Employees : 1973-74.

	Rs. crores
A. Government Administration (a+b) . . . . .	3,135
(a) Central Government. . . . .	1,135
(b) State Government and local bodies . . . . .	2,000*
B. Departmental Commercial Undertakings (a+b) . . . . .	1,060
(a) Central Government (including Railways and Posts and Telegraphs) . . . . .	655
(b) State Governments . . . . .	405*
C. Sub total (A+B) . . . . .	<b>4,195</b>
D. Additional burden to be borne by the Central Government in respect of recommendations of the Third Pay Commission . . . . .	400
E. Total (C+D) . . . . .	<b>4,595</b>
F. Less : 10% of E in respect of those drawing above Rs. 1,000 per month, not entitled to bonus	460
Wages and Salaries eligible for bonus (E-F) . . . . .	4,135
Amount of bonus payable at the rate of 8.1/3 per cent.	
(a) during 1973-74 . . . . .	345
(b) during the entire Fifth Plan period . . . . .	2,250*

\*Estimated

The above figures are based on payment of a minimum bonus at 8.1/3%. If, for any reason, the rate is increased, the magnitude of the burden can easily be visualised.

3.29 Principles apart, the financial burden involved must be considered on a realistic basis. We would, however, like to add that in respect of the categories of employees who are now excluded from the Bonus Act, we are not against normal revision of wages on the basis of the merits of the case and after due enquiry, we are totally opposed to bonus being paid in the garb of *ex gratia* payment, as has been suggested by some members of the Committee in the case of financial institutions. Our objection extends to *ex gratia* payment as such wherever it is recommended because it is bound to lead to undesirable pressures all round as any *ex gratia* payment soon becomes customary payment and then a right. In all these establishments the way to improve the emoluments of employees is by linking additional emoluments to productivity.

#### Chapter XIII—Machinery for Disposal of Bonus Disputes

3.30 We agree with the recommendation in the final Report that bonus disputes should be handled by a special body constituted for the purpose.

3.31 While agreeing with this proposal we wish to emphasise that so long as the Act is strictly adhered to, the scope for disputes in the computation of bonus will be very little. As stated by the Bonus Commission the formula could be worked out, in the large majority of cases, without difficulty so long as there is no provision in the Act to get round the formula in the Act.

#### Section IV—Special problems of some establishments and Industries :

In this section, we propose to deal with the special problems of some establishments and industries.

##### *Treatment of partnership and proprietary concerns*

4.1 Under Section 6 of the Bonus Act, companies are allowed to deduct from profits, among other things, the amount of depreciation as admissible in accordance with the provisions of sub-section (i) of Section 31 of the Income Tax Act or in accordance with the provisions of the Agricultural Income-Tax Law, and Development Rebate or Development Allowance according to the Income Tax Act. However, the benefit of depreciation and development rebate can be availed of only by industries which have installed plant and machinery. The same cannot be availed of by the commercial establishments and trading concerns which come within the purview of the Bonus Act, as they do not possess machinery, plant or large buildings on which depreciation can be claimed. Such denial of the benefit of depreciation has, however, placed the commercial firms at a certain disadvantage as they are unable to put aside necessary sums for expansion of business.

4.2 It may be mentioned that the requirements of fixed capital of such firms also go up due to the necessity for renovating office premises, purchase of furniture and equipment and installation of mechanised devices like accounting machines, calculators, air conditioners etc. The depreciation on these assets would not be adequate to create sufficient cash flow for the firm. Further, the working capital requirements of such firms are also constantly rising as a result of growth in the size of the firm, rent charges, salaries, etc. In view of the above, we feel that the Bonus Act formula in so far as it affects such firms should be modified in two respects as indicated below:

(a) At present under item 5 of the Third Schedule appended to the Bonus Act, the firms are allowed to deduct in addition to prior charges a sum equal to 25 per cent of the gross profits on account of remuneration payable to all the partners taking part in the conduct of business of the settlement. This amount should be raised to 50 per cent of the gross profits derived by such firms;

(b) Secondly, the ceiling on absolute amount of remuneration allowable for deduction fixed at present at Rs. 48,000 per partner should be increased to Rs. 60,000 per partner.

## *Chapter XV—Plantation Industry*

4.3 While we agree with the recommendations in the final Report, we would add that, in the case of coffee and cardamom plantations, the Agricultural Income-Tax Acts in Karnataka and Tamil Nadu States permit the deduction of replanting expenditure, not exceeding the amount necessary for replanting, a prescribed percentage of the planted area for arriving at the assessable income. In view of this provision, we have not recommended any depreciation as a prior charge in the case of these industries. However, in the State of Kerala, the Agricultural Income-Tax Act does not contain provisions similar to those in the Karnataka and Tamil Nadu Acts. We, therefore, recommend that, in the Kerala State, coffee and cardamom plantations should be allowed to deduct, as a prior charge, a replanting expenditure to the extent allowed in Karnataka and Tamil Nadu States.

4.4 We have made our recommendations in the best interest of the country in the context of the many and varied difficulties we face today. For the future, we would once again repeat that the only way of reducing unrest and loss of production arising from bonus disputes is through the strict application of any prescribed formula. The key, therefore, lies in deleting Section 34(3) of the Act and in incorporating provisions which would bind both parties to accept payments strictly in terms of the formula. It is time everyone recognised that further additions to bonus should come out of only increased production and improved efficiency.

4.5 Unfortunately, demands made by labour for wage increase or additional bonus are invariably looked upon as an exercise of the needy workers extracting something from unwilling employers which does not affect the general public or the country's economy. What is totally overlooked is that every wage increase or additional bonus paid in one industry comes from the buyer of the products of that industry whose costs go up with the rise in the prices of the goods they buy. In reality every wage increase or additional bonus in one industry results in like increases in other industries and ultimately the burden is borne by the community which includes workers in other industries. Unless this vicious circle is seen in its proper perspective and all future accretions to wages or bonus are linked to increased production/productivity or efficiency we are likely to give to the economy a self-destroying process.

## **Section V—Summary of Conclusions**

### **1. Minimum Bonus : (Section 10)**

Minimum bonus regardless of profits is conceptually wrong. It should not find a place in the statute. However, only for historical reasons we are not opposed to its continuance at 4 per cent. There is no justification whatsoever for any increase over 4 per cent.

### **2. Absolute Minimum : (Section 10)**

The absolute figures for minimum bonus should remain at Rs. 25 for those who have not completed 15 years of age at the beginning of the accounting year and Rs. 40 for others.

### **3. Set on and set off : (Section 15)**

The present provisions are reasonable and we recommend no change in the Act in this respect.

### **4. Depreciation : (Section 6)**

The depreciation to be allowed in the bonus formula should be the amount calculated in accordance with the provisions of the Income tax Act or the Agricultural Income Tax Act.

### **5. Development Rebate : (Section 6)**

When the benefit of the development rebate is lost to the industry a rehabilitation allowance in lieu of development rebate should be provided in the bonus formula as a prior charge.

### **6. Taxation : (Section 6)**

All direct taxes should be allowed as a prior charge at the rates applicable to the year in question on the balance of gross profits after deduction of statutory depreciation and development rebate where applicable.

### **7. Return on paid up capital and reserves : (Section 6)**

There is no justification for making a distinction between equity capital and reserves for the purpose of providing a return. The same rate of return should be allowed on the aggregate amount of equity capital and reserves and the rate should not be less than 12 per cent. Actual preference dividend payable for the year shall continue to be a prior charge. Capital reserves created by revaluation of assets may not be allowed a return, but capital reserves created by the sale of forfeited shares or premium on shares should be allowed a return at the rate recommended.

### **8. Division of available surplus—allocable surplus :**

Sec. 2(4)(a) and (b).

The available surplus should be equally divided between labour and industry.

### **9. Gratuity :**

Either the amount of gratuity paid during the year or the provision due and made for the relevant accounting year, whichever is higher, in respect of all employees should be allowed as a prior charge. This prior charge should be limited to the extent the Gratuity amounts are computed at the rate applicable to employees covered by the Payment of Bonus Act.

### **10. Cash Incentives : Section 4(b) and Second Schedule—Item 6(g).**

Cash incentives/subsidy given through budgetary grants for specific purposes should be deducted in computing the gross profits whether the incentive/subsidy is paid directly by Government or through any other agency.

### **11. Maximum Bonus : (Section 11)**

There should be no increase in the rate of maximum bonus. If the minimum rate is left at 4 per cent, the maximum should also be left at 20 per cent. If the minimum is, however, raised to 8.1/3% the maximum should be reduced to 16 per cent.

### **12. Salary limits : Section 12 and Section 2(13).**

The notional ceilings on salaries/wages to qualify for bonus may be raised from Rs. 750 per mensem to Rs. 1,000 per mensem and from Rs. 1,600 per mensem to Rs. 2,000 per mensem.

### **13. Section 34(3)**

Section 34(3) should be deleted. Any bonus paid in excess of the amount due under the Act should not be allowed as an expenditure by taxation authorities and disputes for bonus in excess of what is due under the Act should not be entertained by Government or any other authority.

### **14. Section 32(VII).**

Section 32(VII) should be strengthened to encourage genuine production/productivity bonus schemes at the unit level or where possible at the industry level.

### **15. Eligibility for bonus : (Section 8)**

The present provision is reasonable and no change is called for.

### **16. Disqualification for bonus : (Section 9)**

In the case of dismissal for offences mentioned in the section no bonus should be paid for the year in which the misconduct is committed, but bonus payable for earlier years should not be withheld.

### **17. Bonus holiday : (Section 16)**

There should be no reduction in the period of bonus holiday from 5 years. The present provision should be left unchanged.

### **18. Seasonal Industries : (Section 13)**

The present provisions in the Act are satisfactory and no change is called for.

### **19. Machinery to decide bonus disputes : (Section 22).**

The present machinery for settling bonus disputes is not satisfactory. Changes should, therefore, be made for the effective and expeditious settlement of bonus disputes. We consider that the Industrial Relations Commissions recommended by the National Commission on Labour should be constituted without further delay and bonus disputes should be brought within their sole jurisdiction. The Industrial Relations Commissions should have special wings or benches consisting of those who have experience in the special problems relating to bonus. We further recommend that the parties may directly apply to the Industrial Relations Commissions for settlement of bonus

disputes. Pending the constitution of the Industrial Relations Commissions, tripartite Bonus Boards with composition, functions and powers, as recommended in paragraphs 13.3 to 13.7 of the final report, should be set up.

### **20. Access to account (Section 23, 24 and 25)**

There is no justification for amending the present provisions in the Act. The first proposal made in Paragraph 13.17 of the final Report is unworkable and should, therefore, be rejected. However, in accordance with the second proposal contained in Paragraph 13.18 of the final Report, access to accounts may be granted to a representative/recognised trade union nominee to verify specific elements of bonus computation with a view to ascertaining the accuracy of the computation of gross profits which forms the basis of the bonus calculation.

### **21. Recovery of bonus dues : (Section 31)**

The special body constituted to deal with bonus disputes should be empowered to authorise the recovery of unpaid bonus.

### **22. Exemption from payment of bonus : (Section 36)**

The appropriate Government should not be the authority to consider applications for exemption. The special body constituted to decide bonus disputes should have the exclusive jurisdiction to deal with applications for exemption.

### **23. Small establishments : Section 1(3)(b)**

The Act should not be extended to establishments employing less than 20 persons.

### **24. Electricity Undertakings :**

No change in the existing provisions in the Act is necessary.

### **25. Plantation Industry :**

(a) Tea—So long as the cost of replantation is allowed as a deduction for arriving at the assessable income no separate prior charge for depreciation is called for.

(b) Rubber—The rehabilitation or replanting allowance allowed under Rule 22(a) of the Tamil Nadu Agricultural Income tax Rules and Rule 8(g) of the Karnataka Agricultural Income tax Rules should be allowed as a prior charge in computing the available surplus.

(c) Coffee and Cardamom—In Karnataka and Tamil Nadu States so long as replanting expenditure is allowed as a deduction for arriving at the assessable income no prior charge for depreciation is called for. However, as provisions similar to those in the Karnataka and Tamil Nadu Acts are not found in the Kerala Agricultural Income Tax Act a replanting expenditure as in

Karnataka and Tamil Nadu should be allowed as a prior charge in Kerala.

#### **26. Partnerships :**

The bonus formula in so far as it affects partnership and proprietary concerns should be modified in two respects as indicated below :

- (a) At present under item 5 of the Third Schedule appended to the Bonus Act, the firms are allowed to deduct in addition to prior charges a sum equal to 25 per cent of the gross profits on account of remuneration payable to all the partners taking part in the conduct of business of the settlement. This amount should be raised to 50 per cent of the gross profits derived by such firms ;
- (b) Secondly, the ceiling on absolute amount of remuneration allowable for deduction fixed at present at Rs. 48,000 per partner should be increased to Rs. 60,000/ per partner.

#### **27. Banking :**

The rate of return on capital and reserves should be the same for banks as for other companies proposed by us.

#### **28. Exclusions from the Act : (Section 32)**

The present provisions are satisfactory and the Act should not be extended to establishments which are not at present covered by the Act. We are also totally opposed to any *ex gratia* payment to get round the provisions of the Act. Government should set an example by strictly adhering to the statute in establishments under their control.

29. Apart from the changes indicated above the Act should not be amended in any other respect.

Sd/- N. S. BHAT

Sd/- HARISH MAHINDRA

Dated: 27th September, 1974.



## MINUTE OF DISSENT

By

Shri G. Ramanujam

It had been my endeavour throughout the work of this Committee to strive for unanimous recommendations in respect of as many aspects as possible. Even so I find I am not able to agree with my colleagues in respect of some of their recommendations and these recommendations are important and basic. Hence this 'Minute of dissent'.

The main issues on which I have to record my disagreement and make my recommendations are in respect of the following:

1. Coverage.
2. Figures relating to 'absolute minimum'.
3. Treatment of 'initial depreciation' and 'development rebate' in the Bonus formula.
4. Rates of return on 'paid-up capital and reserves' in cases where even after the enactment of the Payment of Bonus Act parties have been adopting different rates from those under the Act.
5. Rehabilitation claim of plantations.
6. Right of collective bargaining Section 34(3).
7. Electricity Undertakings.
8. Bonus to employees in seasonal Industries.
9. Bonus to dismissed employees.
10. Treatment of 'production bonus'.
11. Right of inspection of accounts.

I shall now deal with these items seriatim :

### Coverage

#### I. Section 2(3)(b) :

The present provision in the Act excludes non-factory establishments employing less than 20 persons from the coverage of the Act. While all factory establishments are covered, all non-factory establishments are not covered by the Act. Non-factory establishments employing less than twenty persons are excluded from the coverage of the Act. That is to say while all factories as defined in the Factories Act are covered by the Act, all shops and establishments covered by the Shops and Establishments Act are not covered by the Act. This discrimination against the employees in the non-factory establishments must go.

The Government of Maharashtra has stated that the Act should be applicable to all industrial/commercial establishments or concerns irrespective of

the number of employees employed therein (paragraph 14.27).

The Government of Tamilnadu has also said there need not be any lower limit to which extension be restricted and the Act may be extended to even establishments employing one employee—(paragrapgh 14.28).

Some other State Governments have stated that the coverage may be brought down to non-factory establishments employing ten or more persons. It has to be remembered that the Shops & Establishments Act does not prescribe any lower limit of the number of employees for the application of that Act. Again the Minimum Wages Act also does not prescribe any employment limit for the Act to apply. I, therefore, do not see any reason why the Payment of Bonus Act should not be applied to all industrial/shops and commercial establishments, irrespective of the number employed by them. Further the prescription of any lower limit may lead to malpractices in order to circumvent the obligations under the law.

I agree with the views of the Governments of Maharashtra and Tamilnadu that the Act should be extended to cover commercial and shops establishments employing even one person. Any difficulty in the matter of implementation is not peculiar to bonus alone. If Minimum Wages Act could be implemented and if the provisions of the Shops and Establishments Act could be implemented in such small establishments, there is no reason why Bonus Act could not be implemented in them. On the other hand, such extension would provide an incentive for these unorganised workers to become organised and secure their rights under the law. I, therefore, recommend that the existing Section 2(3)(b) of the Act be amended so that the Act will apply to all Shops and Establishments as defined by respective Shops and Establishments Acts, without any lower limit as to the number of persons employed.

### II

#### (Section 32)

#### Section 32(iv) :

Bonus is an industrial matter. It should, therefore, be made available to all industrial and commercial employees regardless of who their employer is. Employees in industrial and commercial undertakings run by or as a department of the Government, for example, railways, P. & T., Ordnance Factories, All India Radio, Printing Presses, etc., are not Government employees. They are industrial and commercial employees whose employer is Government. The character of the industry in which they are employed

will not change because of the character of the employer. Therefore, all such employees who are employed in the industrial and commercial establishments of the Government in the Centre and in the States, and of local authorities are only industrial and commercial employees and are not to be treated or considered as part of the Government employees and must be made eligible to receive bonus.

In order, however, to remove any confusion in this regard and to ensure smooth changeover in the status of industrial and commercial employees of Government, I would like all the industrial and commercial activities of the Government in the Centre, States and local authorities be run as Corporation or Companies. If this is done, there will be little difficulty in introducing bonus and all other benefits accruing to industrial employees to these employees as well.

These establishments are being run by, or as, a department of the Government not at the request of, or with the concurrence of, the employees concerned. Government might be doing so for their own reasons. But that should not deprive these employees of their right to bonus. While the H.A.L. employees under the Defence Ministry are given bonus, the Tank Factory employees under the same Ministry are denied the same. Although departmental employees in Industry are denied bonus, employees in Ports which are run departmentally are paid bonus. These are instances of unjustified discrimination. All employees working in industrial and commercial establishments, whether run by, or as, a department of the Government at the Centre, States and Local authorities, Boards, Trusts or Commissions, whether competitive or not, should be brought within the scope of the Payment of Bonus Act.

The only consideration that might be weighing with all those interested in the health of the national economy is the impact of such payment on inflation and the national economy. The country is already faced with a galloping inflation and prices are already at an unprecedentedly high level. Government has taken certain anti-inflationary measures although the effect of these measures are yet to be felt on the price level.

When the effect of inflation affects all, how far will we be justified in continuing to deny bonus to industrial and commercial establishments departmentally run by Government, i.e., all those excluded by section 32, while the others are getting bonus. Even if we give these employees their minimum bonus from the accounting year 1974-75, it will be treated as additional wages, and the whole of it may be impounded under the 'Additional Emoluments Compulsory Deposit Act, 1974' and no great impact of such payments will be there on the nation's economy. Government should, therefore, find out a way to meet the legitimate demand for bonus to these employees.

As regards Government employees as such, means other than bonus, will have to be found to ensure them justice.

### *Port & Dock Workers*

#### *Section 32(iii)*

I disagree with the recommendations of my colleagues (paragraph 21.11) that the present system of regulating bonus or *ex gratia* payment to workers in Ports & Docks by direct Government orders be continued. They want these workers to continue to be excluded from the Act. I do not agree with this view. Even though the ports are run departmentally by Government they have started paying bonus. The Ports & Docks should now be brought within the scope of the Act and bonus payments regularised under that law. This will not at all be difficult once. Section 34(3) is retained. Difficulty arises for our colleagues from the fact that they want to shut out Section 34(3). My recommendation to retain Section 34(3) and modify Section 32(vii) of the Act would also solve the problem of Port & Dock workers in the country and they can be brought straightaway under the Payment of Bonus Act. The quantum of bonus payable to the workers should not be by any Government orders. They should be settled by collective bargaining, failing which by the Bonus Boards recommended by this Committee.

### *Insurance and other Financial Institutions*

#### *Section 32*

Employees in Life Insurance Corporation should also be brought within the scope of the Act. There would be no great difficulty in deciding the bonus payable to employees in L.I.C. under the Act for my recommendation to retain Section 34(3) will take care of any such special problems.

The same would apply to employees of General Insurance, Employees' State Insurance Corporation as well as Financial Institutions sought to be excluded by section 32.

### *Other excluded Categories*

#### *Section 32 (Sub-Sections V & VI)*

A number of categories of employment such as in Universities and other educational Institutions, Chambers of Commerce, Hospitals, etc., have been excluded from the purview of the Act. So are also the employees employed through contractors on building operations.

I think there is no justification for excluding employees in Chambers of Commerce, Solicitors' Firms and Auditors' Firms and Hospitals run for profit as well as employees employed through contractors on building and other operations and they should all be brought within the scope of the Act.

### **(2) Minimum Bonus—'Absolute Minimum'**

#### *Section 10*

I appreciate the efforts on the part of the Chairman, Shri R. P. Billimoria and Dr. S. D. Punekar to recognise the need for revising upward the present minimum in terms of the absolute figures of Rs. 80 and Rs. 50 for adults and those below the age of 15 respectively.

It should be realised that this minimum once incorporated in the Statute will remain enforceable for a number of years to come and it should, therefore, be realistic for some years to come.

The 'Approach paper to the Fifth Plan' has laid down that the per-capita minimum desirable standard of consumption based on 1960 prices should be Rs. 20. I do not want to go at this stage into the fairness or adequacy of this figure. Assuming that the sum of Rs. 20, based on 1960 prices is fair, what was 100 in 1960 is 311 in July, 1974 according to All India Consumer Price Index—1960 base. Therefore, the per-capita minimum desirable standard of consumption would be Rs. 62 for July, 1974. A standard working class family has been agreed to consist of four persons—a husband, wife and two children—and, therefore, the minimum desirable standard of consumption for a family of four (although a working class family is generally larger than four) should be Rs. 248 per month. Therefore, wage levels below this amount would not permit even the accepted minimum desirable standard of consumption. I would, therefore, be justified in fixing the absolute minimum at Rs. 248 for an adult worker, subject to periodic revision in the light of the movement of the All India Consumer Price Index. But I have not allowed myself to be carried away in my recommendation by the mere statistical support I may get for the figure of Rs. 248. My recommendation has been conditioned largely by practical considerations. That is why I have reduced this figure to Rs. 200 I am, therefore, unable to agree with the Chairman, Shri R. P. Billimoria and Dr. S. D. Punekar, that the absolute minimum figure should be only Rs. 125 for adults and at Rs. 80 for persons below 15. I recommend that the absolute minimum figure should be Rs. 200 for those above 15 years of age and Rs. 120 for those below 15 years, and that section 10 of the Payment of Bonus Act may be amended accordingly.

### (3) Bonus Formula—Initial Depreciation

#### Section 6(a)

My colleagues have recommended (paragraph 9.25) that initial depreciation should be debited like ordinary depreciation as admissible under the Income-tax Act as a prior charge.

Initial depreciation is an incentive, a sort of subsidy. While dealing with the 'add-backs' to the gross profit, my colleagues have agreed that subsidies and incentives, if debited to the Profits and loss account, should be added-back to arrive at the gross profit. Therefore, any suggestion to allow initial depreciation as a 'prior charge' is contrary to their own position. Even the Bonus Commission has not allowed 'initial depreciation' as a 'prior charge'. The present Act also does not specifically mention initial depreciation as a 'prior charge'. I, therefore, do not agree with my colleagues in their recommendation, I recommend that initial depreciation should be excluded from the 'prior charges'. If it was already debited in the Profit and Loss account, it should be added back to the net profit to arrive at the gross profit. Only the

statutory normal and extra-shift depreciation due under the Income-tax Act can be allowed as a prior charge.

#### *Development Rebate/Development Allowance*

#### Section 6(b)

I do not agree with my colleagues that the 'development rebate' should be allowed as a prior charge for purposes of the 'Bonus formula'.

I would like to recall that the Bonus Commission was against allowing 'development rebate' as a 'prior charge'. Allowing 'development rebate' as a prior charge will result in distorting the bonus formula, which is designed to ensure justice between the parties. I am, therefore, against deducting development rebate as a prior charge for the purpose of computation of bonus in the Act formula and recommend that the relevant schedule under the Act may be amended accordingly.

### (4) Return on Capital and Reserves

#### *Third Schedule Sec. 6(d)—Paragraph 9.32*

My colleagues on the Committee are aware that even when 8.5% was allowed as 'return on capital' and 6% was allowed as 'return on reserves' under the provisions of the Payment of Bonus Act as prior charges in pursuance of the minority recommendations of the Bonus Commission, many employers even in the textile industry, which fathered the formula, have agreed to compute the return on capital and reserves at 7% and 4% respectively to arrive at the available surplus in terms of the majority recommendations of the Commission throughout the period the Act has been in force. I, therefore, recommend that wherever it has been the practice to compute the return on capital and reserves at rates lower than those laid down in the Act, they shall be allowed to continue to do so. This, I feel, is necessary for the maintenance of industrial peace.

#### *Banking—Para 16.14*

My colleagues have recommended that the general formula with the minor modifications suggested by them may be made applicable to the Banking Industry also. If the implication of this recommendation is that the Banking Industry also should be allowed the higher rate of return, viz., 8.5% on paid-up capital and 6% on reserves, whereas the existing provisions under the Act only allows 7.5% on paid-up capital and 5% on reserves as a prior charge, I do not agree with such recommendation. I am for retaining the existing rates of return on paid-up capital and reserves for the Banking Industry also as provided in the Act. But, this apart, it is nobody's case that the formula was ever applied in the Banking Industry. They have always been settling the bonus disputes under Section 34(3). Therefore, my recommendation that Section 34(3) should be retained in the Act will take care of any problems peculiar to Banking Industry.

### (5) Rehabilitation claim of Rubber Plantations

I disagree with this recommendation (paragraph 15.19) by my colleagues. In my view, the claim for rehabilitation is common to all Industries, and not peculiar only to rubber or other plantations. Replanting expenses and filling up of vacancies etc., are even now debited to revenue account in the plantation industries. I, therefore, recommend that no further 'prior charge' should be added to the list of 'prior charges' already indicated in the Act.

### (6) Right of collective bargaining Section 34(3)

There are diverse kinds of industries, commercial establishments and Services in the country. While some are capital-intensive, some are labour-intensive. While some are monopolistic, others are competitive. Some have the prices of their products controlled by the State; others are allowed a free market. While some have Statutes prescribing the manner in which the profits are to be disposed off, others are free to dispose off their profits as they like. There are undertakings run as public limited companies, private limited companies, partnerships, societies, charitable trusts, proprietary concerns and cooperatives. There are also industrial and commercial activities carried on by Central, State or Local Governments, either as Corporations or as only departments. There are also undertakings simply styled as either Board, Commission or Authority. There are companies with global activities, whose Hd. Qrs. are outside India, subject to double taxation, with or without relief from double taxation. There are also undertakings with foreign collaboration with interests in different degrees. There are undertakings of vastly varying size and number employed, even down to shops employing one person. It is obvious that for all this bewildering variety of undertakings, prescribing a single rigid formula for the settlement of bonus disputes and providing for no elasticity or escape clause, will be the shortest cut to confusion, conflict and dislocation in production. That was why an element of elasticity or escape clause has been provided in the form of Section 34(3) in the present Act.

But for Section 34(3) of the present Payment of Bonus Act, which permits the parties to reach agreements on the basis of any formula other than that embodied in the said Act, subject to the minimum prescribed in the Act, industrial peace in many undertakings would have been a recurring victim. In fact, more bonus disputes have been settled outside the formula in the Act than under the Act formula even in the textile industry which had fathered the formula. The Act formula has only helped to govern awards by adjudicators, whenever the parties fought against each other; and we do not want the parties to production to become perpetual litigants. This reality should not be ignored by us while formulating our recommendations, particularly when we have been specifically enjoined by our terms of reference to have in mind the impact of our recommendations on the national economy.

If we look to the Bonus history ever since the Payment of Bonus Act was enacted and assess the conduct of the parties in the major industries in the country, both in private and public sector, we will find that :

*In Textiles* : Year after year right from 1965 the textile industry in Bombay, Ahmedabad, and in the South, has been paying bonus at rates higher than that payable under the formula laid down in the Payment of Bonus Act by agreement under Section 34(3).

In para 5.8, however, my colleagues have recognised the fact that :

"In most cases it (bonus paid) was higher than what was payable under the formula and higher than the minimum, though the minimum only was due".

*In sugar* : Similarly, in the sugar industry although my colleagues have stated in para 5.9 most companies have paid above the minimum and half the number at the maximum rate in 1965, in 1970 the majority paid bonus at the maximum rate and even some units have paid at rates above the maximum. But they have omitted to mention the fact that in all these cases, the percentages of bonus paid were higher than the bonus payable under the Act formula.

*In Engineering* : In the Engineering Industry too, my colleagues have observed in para 5.10 that the 'bonus actually paid' was somewhat higher than what was payable both in 1965 and 1970.

*In Jute* : In the Jute industry also my colleagues have observed in para 5.11 that the 'actual bonus paid' was higher in most or all cases in 1970. It was not only higher with reference to bonus paid in 1965; it was also higher than what was payable under the Act formula.

*In Electric companies* : Dealing with Electric companies my colleagues have observed in para 5.12 that:

"the bonus payable in terms of the formula was mostly at the minimum rate in 1965, and largely at this rate in 1970; the bonus actually paid, however, had hardly any relation to the formula—either in 1965 or in 1970, the formula having remained mostly inoperative".

*In Public-sector Companies*: Even in regard to public sector companies, my colleagues have observed in paragraph 5.13 that:

"the rate of bonus actually paid, though also at the minimum in about half the number of Companies in 1965 and less than half in 1970, was higher in several cases than the bonus due or payable."

They have further observed in para 5.14 that:

"In two cases though the bonus payable was 4%, 20% was paid. In other cases, bonus was paid at the maximum rate in terms of Settlement or agreement with workers. In several cases, the bonus paid was somewhat higher than due under the formula."

*In Banks :* The same would apply to Banking Industry also. My colleagues have observed in paragraph 16.15 that:

"It is true that the outcome of the general formula in its application to Banks has been, as the Indian Banks Association has brought out in an annexure to its memorandum, to make the bonus paid a very high percentage, and even multiple of the available surplus, viz., in no case lower than 88%, and as high as 462% in one case in 1970, and in most cases above 100%".

My colleagues have proceeded to observe (paragraph 16.13):

"If we were to take a cue for a formula for bonus from the two representations of the All India Bank Employees' Association, it seems that the best solution in the case of Banks, assuming that the provision for transfers to secret reserves has to stand, would be to let the bonus in individual units be determined by bilateral bargaining as at present between the minimum and maximum limits established by Statute."

#### *Higher-Paid Employees*

In regard to bonus paid to higher-paid employees, some of the public sector companies have been paying bonus to those drawing above Rs. 1,600 per mensem out of the 40% allocable surplus belonging to the employers. Even in such cases, some have paid the bonus as if the salary of the employee was Rs. 750; some others have gone up to Rs. 1,600 for the same rate of bonus to the higher-paid employees (paragraph 5.16).

In the private sector also some of the affluent companies have raised the ceiling for payment of bonus of Rs. 1,600 very substantially, or without any limit. Again the notional ceiling rate of Rs. 750 for calculation of bonus has not been uniformly adhered to (paragraph 5.17).

#### *Credit for reduction in Man-Days lost goes to sec. 34(3) :*

Discussing the table in paragraph 5.18 dealing with the trend in the number of man-days lost on account of bonus disputes, my colleagues have observed:

"A distinct improvement in the climate of industrial peace follows, which suggests that industry and labour were settling down to working within the framework of the legislation until in 1970 trouble erupted again".

This "legislative framework" referred to by my colleagues is only a euphemistic reference to the provision under Section 34(3) as would be obvious in the light of the conduct of the parties in the several industries indicated in the foregoing paragraphs.

My colleagues have also recognised this fact in para 1.2. viz.,

"There appears to be a trend in favour of utilisation of provision of Section 34(3) for arriving at an agreement by the employees with their employers under a formula or arrangement different from that prescribed under the Act".

But my colleagues have argued that the provision under Section 34(3) has brought pressure on the employers to pay a higher bonus than that payable under the Act; and that these pressures have worked to impair the framework of the Act; and that, therefore, they have recommended that all bonus payments should be regulated only according to the formula in the Act. To this end they have recommended Section 34(3) should be deleted.

I totally disagree with this interpretation and approach. It is this Section 34(3) which has saved the Act, far from impairing it or its framework, being itself part of the frame.

As already stated there are diverse kinds of establishments functioning in our economy—the public sector companies, private limited companies, partnerships, proprietary concerns, co-operatives, public sector undertakings, monopoly as well as competitive, small-scale, medium-scale and large-scale, capital-intensive, and labour-intensive, establishments whose profits can be disposed off as they like and establishments whose distribution of profits are regulated by law, establishments which have a free market for the prices of their commodities, manufacturing establishments and/or agency houses, as well as establishments whose prices are controlled or whose service charges are controlled. In all these diverse conditions, it will be impossible to settle bonus disputes through a rigid single formula. It will not also be possible to prescribe statutorily dozens of formulae, so as to suit the requirements of each variation in the composition, character and conduct of business. That is why, where the Act prescribes a single formula it suffered from serious inadequacies, and both Sections 34(3) and 32(vii) provide the necessary alternatives. It is these provisions which make settlement of bonus disputes possible by introducing an element of elasticity and thus save the Act.

Enlightened thinking in the country has always encouraged collective bargaining. While collective bargaining is to be conceded, even encouraged in respect of the other terms of employment, I do not see any reason why it should be prohibited by law, as my colleagues want it, only in respect of bonus. Indeed it would be a futile recommendation to say that labour and management should not agree on the quantum of bonus; and worse still to say that if they agreed that would be illegal and the parties would thereby render themselves open to prosecution for committing an offence under the Act !

I cannot imagine of a more unpractical recommendation. Even if Section 34(3) is deleted, parties will still continue to negotiate and reach an agreement wherever possible. Only if the Act requires that if what has been agreed to should not be called 'bonus', the parties will only find a different name

for it. Agreements will still continue to be made, and by deleting Section 34(3) we will be only compelling them to circumvent the law. It is such recommendations that will impair the law, and make labour and management lose respect for law. We cannot rule out bonus agreements by scrapping Section 34(3); or for that matter we cannot do away with bonus by doing away with the Payment of Bonus Act. Bonus was there before the Act came into force and bonus will continue to be paid even if the Act was taken out of the Statute Book. The same would apply to section 34(3).

The observations in paragraphs 5.7 to 5.17 by my colleagues go to show how useful and effective Section 34(3) has been. My colleagues in fact have argued for my position in para 13.2, wherein they have said :

*"We are, therefore, of the view that the present system of resolving bonus disputes, otherwise than by collective bargaining, requires a drastic overhaul".*

But what they have recommended is ruling out totally collective bargaining, thereby landing themselves in a self-contradictory position.

Taking, therefore, into consideration the conduct of the parties over a long number of years, both before and after the enactment of the Payment of Bonus Act, and the need for avoidance of rigidity, as well as the need for promotion of collective bargaining, and taking a practical view of the question, largely guided by a desire to avoid dislocation in production, which the country can ill afford now and for many years to come, I recommend that Section 34(3) of the Payment of Bonus Act should be retained as it is.

## (7) Electricity undertakings

My colleagues have found it very difficult to accommodate the Electricity Industry within the framework of the formula recommended by them, because they have recommended the deletion of Section 34(3), and therefore, they have recommended that bonus to employees in Electricity Undertakings should continue to be determined as now with the approval of the State Governments in terms of the Sixth Schedule of the Electricity Supply Act.

My colleagues' recommendations would be impossible to implement as bonus in Electricity undertakings are settled under section 34(3) and such settlements will no longer be possible since they want to do away with Section 34(3). In order, therefore, that my colleagues are consistent in their recommendation there is need for retention of section 34(3).

I, therefore, recommend that the employees in the Electricity Undertakings also should be governed by the Payment of Bonus Act, inclusive of Section 34(3), which would enable them to settle bonus disputes taking into account any features peculiar to those undertakings.

I do not want the State Governments to have the final say in the matter as my colleagues have recommended. The State Government, after all, is the employer. In case bonus disputes in Electricity Undertakings could not be settled by bipartite negotiations, it should go before the Bonus Board recommended by us for final determination.

## (8) Employment in seasonal industries

I do not agree with the recommendation of my colleagues in respect of bonus payable to workers in seasonal employment. The seasonal workers are already at a disadvantage in that what they earn during the seasons should support them for the whole year. The wages of workers in seasonal employment are generally low and hardly sufficient to maintain them even during the season itself. Workers in seasonal industries, therefore, require some special consideration. I recommend that in their case the season itself should be deemed to be the year and where only the minimum bonus is due it should be at one month's wages, subject to the absolute minimum figures recommended already. Employees who work throughout the season will be paid the full bonus due to them on the above basis, and proportionately for those who work for lesser number of days in the season. There might be a few employees working round the year even in seasonal factories, and they will be treated in the same manner as workers in perennial factories. I recommend that a new provision may be introduced in the Act accordingly.

## (9) Bonus to dismissed Employees

### Section 9:

My colleagues have recommended that dismissed employees should not be eligible to receive bonus for the single year during which the offence which led to the dismissal occurred and that it should not apply to any bonus for earlier years which might be due but might not have been paid. While this is no doubt an improvement over the existing provision in the Act, I feel this is not adequate.

It is obvious that what we are recommending here is not a good-conduct bonus but a profit sharing bonus. Therefore, good attendance, good conduct, etc., however, desirable, would be extraneous to the issue before us. They have cited the instance of gratuity. Gratuity undoubtedly is a reward for long, faithful and efficient service and is not related to profits. Therefore it is not comparable with bonus. So far as profit-sharing is concerned, it should be only linked to profits, actual or anticipated, and the number of days the employees have worked to the earning of such profit.

Once a management dismisses an employee for misconduct, he has already been awarded the punishment of dismissal for the offence. To punish him again for the same offence by denial of bonus would not be fair.

If, however, any damage to property has been caused by the proved wilful omission or negligence of an employee and if the management has imposed a

valid fine for such negligence or omission and if that fine has not been recovered from wages, it can be adjusted from the bonus payable to the employees and the balance paid to him. Otherwise, a dismissed employee must also be eligible to receive bonus for the days he had worked in that year. I recommend that the Section may be amended accordingly.

#### (10) Bonus linked to Production/Productivity Section 32(vii)

I am unable to agree with the recommendations of my colleagues (*para 8.20*) that 'employers and their employees may be encouraged to reach agreements substituting profit bonus by bonus linked to production or productivity'. Their recommendation is against the accepted concepts of production bonus and profit-sharing bonus.

I feel that the existing profit bonus should not be replaced by bonus linked to production/productivity; as the objective and scope of the two types of bonus claims are so different that it is not practicable at this stage of their separate development for one type of bonus (example that linked to production or productivity) to replace the other type, *viz.*, bonus linked to profits. This position has been conceded by my colleagues in *para 8.20* and their recommendation is therefore self-contradicting.

I, therefore, hold that production bonus schemes should be to supplement the profit-sharing bonus and not to supplant the profit-sharing bonus, as the objective and scope of the two bonuses are admittedly so different that it is not practicable to substitute the one by the other. Such agreements at the unit level supplementing the profit-sharing bonus by a production/productivity-based bonus can be at any/or all the levels of profit-sharing bonus, right from the minimum.

Even so, if, at the unit level, the employees and their employers would like to enter into an agreement for payment of production/productivity bonus *in lieu of* profit-sharing bonus, nobody should come in their way. Indeed any *bona fide* agreement between the parties should be encouraged. I, therefore, recommend that Section 32(vii) of the Payment of Bonus Act may be amended as under:

"Nothing in this Act shall preclude the employees and their employers from reaching an agreement either prior to or after the date of amendment of this Act for payment of such production/productivity bonus for any accounting year either *in lieu of* or *in addition to* the profit-sharing bonus payable under the formula laid down in the Act or on the basis of any other formula under Section 34(3)".

#### (11) Right of Inspection of Accounts

##### Sections 23, 24 and 25

I do not agree with the recommendations of my colleagues that the present provisions in the Act in this regard are satisfactory. These are days when labour has been accepted as a partner in Industry and has been considered to be eligible for participation in the management of industries at all levels, with even a seat on the Board of Directors. I regret to have to observe that the recommendations of my colleagues are, therefore, somewhat out of date. They have not taken into account the recent trend in thinking about the status of labour. If labour is a partner in the Industry it must at least be enabled to share information with the management. There can be no secrecy between partners, if we want the partnership to be fruitful. Labour must be made intelligent by giving it an insight into the working of the industry, its economics, finances, problems and pitfalls, as well as the progress it could achieve. It is not enough if labour is given a share in the profits by way of bonus. It must also be satisfied that the profits have been correctly arrived at.

I have no complaint against auditors. But I am not satisfied with the system of audit as at present conducted. It is largely mechanical and at best can serve the interests of only one of the three parties, *viz.*, shareholders.

In the private sector audit, an auditor is not required to do any 'propriety audit'. To begin with, I would not even insist on the appointment of another auditor by labour in addition to the auditor appointed by shareholders. I would only recommend that the representatives of the recognised unions should have the right of access to the books of accounts and other relevant documents to satisfy labour that the accounts have been correctly rendered.

It is not enough if Tribunals and Courts have powers to inspect the accounts. It is labour which must have that right, for I do not want every bonus dispute to go before a Tribunal or a Court, or even the Bonus Board we have recommended. I would, therefore, recommend that Sections 23, 24 and 25 of the Payment of Bonus Act may be amended giving the necessary right to inspect the books of accounts to representatives of recognised unions.

Before I close this note I must point out that besides the points covered by this 'Minute of dissent', my disagreement in respect of certain recommendations by my colleagues have been recorded in the body of the report itself. As these do not require any elaborate argument to justify my disagreement, I have not referred to them specifically in this note.

BOMBAY

27th September, 1974

(G. RAMANUJAM)

## NOTE

By

Shri Mahesh Desai

Wherever I have differed from my colleagues I have had, by and large, my differences recorded in the Report. In this note I propose to explain why I have differed from them.

2. The broad propositions I unsuccessfully argued for acceptance in the BRC were canvassed by the workers organisations in their memoranda as well as in their addresses to the BRC. They also derived considerable support from public policy and its application by those responsible for formulating and implementing it.

3. The Bonus Commission was specifically asked to define the concept of bonus. The Commission frankly admitted that it was difficult to do so. Nor did it disguise the contradiction between the loose formulation "that where the profits exceed a certain base, labour should legitimately have a share in them" and its forthright recommendation that minimum bonus at the rate of 4 per cent of annual earnings should be paid to workers irrespective of profits. The contradiction negatively asserted itself in the legislation based on the Report of the Bonus Commission. Thus the Payment of Bonus Act deals with all aspects of payment of bonus but conspicuously refrains from defining what bonus is. The BRC Report, to my mind, starts off on a wrong trial when it says by way of conclusion in Chapter 2—EVALUATION OF THE SYSTEM AND CONCEPT OF BONUS IN INDIA: BACKGROUND OF ENQUIRY "the issue which this background to the enquiry raises is whether the character of bonus as it has thus evolved could substantially remain unaltered or it should be modified in any material way and if so in what manner. Our answer is that basic character and concept of bonus should remain essentially the same as we have stated in the interim reports".

4. I cannot and do not accept this as relevant to our enquiry which is "to review the operation of the Payment of Bonus Act, 1965, and to suggest suitable modifications to the Scheme outlined therein....." The statement of the kind quoted above from the BRC Report, I apprehend, forecloses the review of the operation of the Bonus Act and rules out modifications to its scheme. The final shape of the report bears out my apprehensions.

5. But there are other reasons for my not subscribing to this initial conclusion. In the first place the BRC has not been asked to define the concept of bonus. Secondly, there have been two interim reports from which more than one answer would be forthcoming which would, if anything, compound the contradiction surrounding the basic character and

concept of bonus. My humble submission is that it could not be the end-product of our review much less the purpose of public policy in setting up the Bonus Review Committee that everything about the Payment of Bonus Act should remain substantially unaltered and that the contradiction surrounding the character and concept of bonus should remain unresolved.

6. The intimations of public policy have been clear and copious and might have received more attention from the BRC. The Bonus Act carries a long list of categories of workers who are excluded from its operation. In other words, it has taken great pains to define the sheep and the goats: those who would get bonus and those who would not. But the Port and Dock workers who were specifically excluded and the workers of Hindustan Aeronautics Limited which was a non-competitive public sector undertaking were given payment equivalent to bonus "as if they were covered by the Bonus Act". The first deliberate and decisive step was taken by the Government of India in recognition of the fact that the scheme outlined in its legislation on bonus was imperfect and that the operation of the Act strictly according to the scheme was unsatisfactory. Both needed review and rectification. The review was made *suo moto* by the Government of India and the rectification was effected by way of analogy by enlarging the area of eligibility for bonus by equivalent payment but without amending the Act. But the need for amendment as well as the direction of amendment were clearly underlined.

7. In 1966, the then Union Labour Minister assured the Parliament that amendment of the Act was under the consideration of the Government. In other words, the experience of one year was enough to convince the country that the scheme and the operation of the Act had failed to meet the requirements of public policy and were in need of review and modification. The issue which had then occasioned reconsideration was that of the quantum of minimum bonus of 4 per cent. The assurance was allowed to languish without supporting action for many years. Nevertheless the commitment of the Government was reiterated by the then Labour Minister in 1970 and was acted upon by another minister in the Government of India who by an executive order raised the quantum of minimum bonus from 4 per cent to 8 per cent for the year 1970 for the workers of Jessop and Company Limited, Calcutta, a Government of India Undertaking. Bonus Act notwithstanding the minimum bonus was on the mend.

8. In 1971 the then Union Labour Minister presided over bilateral negotiations on bonus in the textile industry in Bombay and lent the weight of his

office to the bilateral process of altering the basis of computation of bonus. The crucial aspect of the Khadilkar Formula was the acceptance by the employers and the Government that gross profit after deducting depreciation constituted the divisible bonus pool instead of the statutorily available surplus subject to various prior charges. It is true the workers and their trade unions opposed this agreement and rejected the formula. But that was because those who signed that agreement on behalf of the workers had repudiated their earlier demand for a minimum bonus of 8.33 per cent made jointly with other organisations a few weeks before the settlement. Moreover the nominal increase in the quantum of bonus had the character of advance payment to be recovered by the employers should the basis of the agreement be revised by a subsequent review by a committee.

9. The Government of India had already accepted the need for two modifications affecting two elements of bonus law, namely, the coverage and the minimum bonus. The Bombay textile agreement of 1971 between the workers and the employers represented further advance in so far as the employers explicitly accepted the need for modification in the core of the Bonus Act: the formula for computing bonus.

10. In the background of these departures made in the operation and scheme of the Payment of Bonus Act the issue before the BRC, one would have thought, was not whether the character of bonus would substantially remain unaltered and essentially the same but to investigate the compulsion behind these departures and to make the logic of this compulsion the starting point of its review. The compulsion became decisive and its logic inexorable because the thrust for change in the scheme and operation of the Act was derived from public policy. It was the failure of the BRC as a whole to discern the direction of public policy that was responsible for its having to give two interim reports to the Government of India. In unmistakable affirmation of public policy the Government of India had no hesitation and lost no time in accepting and acting on the interim report which had recommended the enhancement of the minimum bonus from 4 per cent to 8.33 per cent.

11. Even while the BRC was hearing the parties on the issues other than the minimum bonus and was engaged in drafting its report public policy was manifesting itself in specific actions which indicated how out of date the various provisions of the Bonus Act had become. Thus, for the bonus year 1972-73 the Ministry for Heavy Industries in relation to the various units of Bharat Heavy Electricals Limited improved upon the Bonus Act. The Hyderabad Unit waived the exemption clause and paid bonus at the minimum rate of 8.33 per cent even though that unit had not been in production for six years nor had it started making profit. Its Bhopal Unit paid 10 per cent of wages, in two parts: namely, 8.33 per cent as bonus and 1.67 per cent as *ex-gratia* payment although under the Bonus Act and formula only 8.33 per cent was payable. Its Tiruchi Unit voluntarily waived the ceiling and paid to its workers a maximum bonus of 20 per cent and also additional amount ranging from

Rs. 200 to Rs. 350. Mr. T. A. Pai who was simultaneously holding charge of Ministry of Steel and Mines in addition to the Ministry of Heavy Industries also sanctioned payment of Rs. 100 to the workers at Bhilai Steel Plant over and above the minimum bonus of 8.33 per cent.

12. The Union Labour Minister Mr. Raghunatha Reddy who actively supported Shri Pai in preparing the ground for the amendment of the Bonus Act by specific departures in the public sector establishments also threw the weight of the Labour Ministry in relation to the workers employed in five of the eight major ports, namely, Goa, Cochin, Madras, Vizag and Calcutta. Ever since the extension of the Bonus Act on the basis of analogy to the ports, port workers and dock workers had been getting bonus at a uniform rate. Mr. Raghunatha Reddy changed that practice and ensured the payment of bonus to the dock workers at rates ranging from 10 per cent to 11.5 per cent while pegging the payment of bonus to the port workers at their minimum rate of 8.33 per cent. My differences with my colleagues to a considerable extent are due to the fact that they do not attach the same weight, which in my humble opinion they should receive, to these manifestations of public policy and to the active role played by the Ministers responsible for its administration. Incidentally we have already approved and endorsed the principle of parity in remuneration to the port workers and the dock workers and I, therefore, strongly urge that the port workers also should be paid bonus at the same rate at which the dock workers had been paid bonus for the year 1972-73 and that parity should continue to prevail between the port workers and dock workers in all respects.

13. Analysis of the information given to the BRC brings out many more instances in the public sector as well as in the private sector covering a wide range of industries where the bonus actually paid has been in excess of what was due under the Act. (Chapter V and its appendices). Jamshedpur Steel Plant of Tata Iron and Steel Co. Ltd., which is the biggest private sector establishment in the country, has in all the years since the commencement of the Bonus Act paid bonus in excess of what was payable under the Act. Coimbatore textile industry in Tamil Nadu has been paying bonus for several years on a basis other than that of the Bonus Act so as to ensure higher payment of bonus to the workers than would be available under the Act. Several other industrial establishments have evolved their own formula and have paid bonus much larger than what would be due under the Act.

14. The operation and scheme of the Act have to be reviewed against this background of facts. In so far as it relates to the concept of bonus these facts confirm the validity of the statement of the Bonus Commission that bonus "augments their (workers') earnings and so helps to bridge the gap between the actual wage and the need-based wage..... It suits the workers' pattern of consumption for spending... on needs which cannot be conveniently met from the monthly wage pocket". In other words bonus has always been and would continue to be the means and method of augmenting workers' earnings and the

Bonus Act remains and should remain the instrument of social policy for their income augmentation. The principle of income augmentation was given statutory support at the lower level by making the minimum bonus first at the rate of 4 per cent and subsequently at the rate of 8.33 per cent obligatory without reference to profits. At other levels the principle found practical expression in bilateral settlements which by-passed the provisions of the Act concerning coverage, period, exemption, bonus formula or ceiling on bonus.

15. The principle of bonus payment as a measure as well as a method of income augmentation cannot and does not lend itself to an interpretation which denies its benefit to a large number of workers on some arbitrary basis of exclusion. It is in this view of the matter that I consider all the provisions of the Payment of Bonus Act which deny bonus to the workers as discriminatory and, therefore, in need of deletion. The proposition was unanimously endorsed by the workers' representatives in the interim report when they asserted that "the Act should be extended to cover all wage and salary earners in all areas of employments". We have again reiterated this proposition in relation to the small establishments so as to extend the principle and payment of bonus to every single establishment employing even a single worker. Logically I do not see any reason to limit the coverage to "all industrial and commercial establishments as well as manufacturing and trading establishments, whether run as a corporation, company, commission, society, authority, board or whether run as a department or under the authority of a department of Central Government, State Government or Local Authority, or whether run as a cooperative unit or as an open unit, whether competitive or not". As long as employees in these sectors are governed by a common wage structure and conditions of service, it seems to me that, their division into commercial-cum-industrial workers and others would be artificial as well as arbitrary. Such division would run counter to the very principle of income augmentation which is the main reason for extending the coverage of bonus. Moreover, it would be difficult to draw a line between commercial and industrial employees and others when the operation is integrated under a single authority. Even if this difficulty is overcome the very small number of workers who could be treated as others does not justify this difficult and discriminatory exercise. I have, therefore, maintained that statutory right of bonus should be extended to all sectors of employment irrespective of the nature, character, age or volume of the employing unit.

16. At the level of minimum bonus the principle of income augmentation lends itself easily to legislative enactment. When the minimum was raised from 4 per cent to 8.33 per cent this was achieved by a simple amendment of the relevant provision of the Bonus Act. But to achieve income augmentation at other levels either an entirely new bonus formula will have to be evolved or the number of prior charges will have to be reduced besides reducing the rates of return on capital and reserves or the allocable

percentage in the available surplus will have to be raised. Although in their memoranda as well as their addresses to the BRC the workers' organisations had canvassed for a bonus formula related to division of gross profits this could not even become a basis for discussion in the BRC. So strong was the feeling of a section against even entertaining this proposal for examination.

17. Nor was it possible to establish a basis for reexamination of the various prior charges and the rates of return. This line of enquiry was rendered even more remote by the change in the economic situation since the enactment of the Bonus Act in 1965. For similar reasons it was not possible to seriously consider the revision of the allocable percentage. Therefore, the BRC could not, even if it tried, formulate propositions for income augmentation at other levels which could have been incorporated in the existing Bonus Act by way of amendment. And yet the need for income augmentation had been writ large in the total experience of the Bonus Act no less than in the evidence brought before the BRC.

18. The one fact which stood out from this experience and this evidence was that income augmentation through bonus was effected by recourse to the traditional method of collective bargaining. It could not be otherwise. Taking the area of economic activities in which bonus has loomed large as an industrial dispute a correct assessment would show that both before and after the enactment of Bonus Act the resolution of bonus dispute has overwhelmingly come through collective bargaining. It was to provide for this large and growing contingency of having to resolve the annual recurring dispute of bonus outside the strictly unworkable statutory provisions that the necessity of collective bargaining was envisaged and was provided for in Section 34(3) of the Bonus Act. It is also the one issue on which the trade union organisations have been consistent and unanimous. I have, therefore, not only opposed the deletion of the provisions of this Act in this regard but have logically proceeded from there and have advocated collective bargaining as the means and method of income augmentation through bonus at all levels other than the minimum bonus.

19. If during the past years in reaching collective bargaining agreements parties had discarded the bonus formula under the Act they would have to discard the bonus formula also in the future to reach collective bargaining agreements. The legitimacy and supremacy of the principle of collective bargaining in industrial relations is not being questioned and cannot be questioned. Wholesomeness of public policy would be better preserved and strengthened if collective bargaining is not forced to disregard the law and go beyond it. Displacement of the bonus formula simultaneously leads to the lifting of ceiling on bonus. Consistently with my advocacy of collective bargaining I have rejected the concept of a ceiling on bonus.

20. It would be illogical to raise the lower and upper limits of bonus but to retain unaltered the intermediate levels of bonus. Given the enhancement of the minimum and the maximum bonus this is

what it would be if the intermediate levels of bonus were to be decided in terms of the formula which is left unaltered. As a matter of fact bonus at all levels have been higher under agreements whether in the public or private sector. That is also the thrust of public policy as I have repeatedly emphasised. Since it has failed to evolve a formula based on the division of gross profits nor has it suggested a method of increasing the quantum of bonus except at the minimum and the maximum levels it is only collective bargaining which would succeed in giving effect to the concept of bonus as a means and method of income augmentation at intermediate levels.

21. In view of my advocacy of collective bargaining for determination of bonus above the minimum and my rejection of the concept of ceiling on bonus my insistence on retaining the statutory character of minimum bonus appeared to some of my colleagues as inconsistent and illogical. I would have readily accepted the charge and made amends had the BRC been dealing with this matter in the context of the national industrial relations policy of collective bargaining. The national context unfortunately is one of Government intervention and third party adjudication. As the Supreme Court decision on bonus for small establishments has shown this could have serious consequences. The Supreme Court has held that with the enactment of Bonus Act the enforceable right to bonus has been created in favour of all those who are covered by the Act. But on the other hand those who are excluded from the purview of the Act not only do not have the right to bonus but cannot even raise the demand for bonus much less have it adjudicated upon by the machinery created under the industrial law. It is only by bringing workers in all sectors of employment within the purview of the Bonus Act that they could be clothed with the right to bonus. Given the great diversity of the structure and management of finances in all areas of employment minimum bonus unrelated to profit provides the essential common ground on which the principle of income augmentation through bonus could be extended to all the workers. That there is need for income augmentation for categories of workers who are outside the purview of the Act today would be more than apparent if we compare their wages with those who have their income augmented through bonus payment under the Bonus Act.

22. The inalienable character of bonus as workers' income has been affirmed again and again. That is why the Act was amended in 1969 to ensure that the rebate on income-tax on the bonus payment should not revert to the employer but should be added to the available surplus of the following year. It was this aspect of bonus which Mr. Naval Tata the President of the Employers' Federation of India, had put across to the BRC in his proposal which he had specially sent to it in his personal capacity. His proposal, formulated on the premise that bonus was part of wages, suggested merger of 4 per cent with wages and the remaining 4.33 per cent to be paid to the worker as good conduct bonus. In making this proposal Mr. Naval Tata was conveying to some of the BRC members the futility of trying to bring down the minimum bonus below 8.33 per cent. That

was clear enough. But his proposal meant more than that. It underlined the need for income augmentation and also indicated the extent of augmentation necessitated by falling real earnings. The BRC flinched, when Mr. Naval Tata did not, in accepting the logic of the evolution of the concept of bonus as income augmentation. Likewise the BRC took a view sadly at variance with that of Mr. Naval Tata about the manner in which and the extent to which the deterioration in the economic situation was impinging on the workers' real wages and standard of living. Consistent with this approach to bonus Mr. Naval Tata in the course of his discussion with the BRC had loudly wondered why the Government employees should also not get bonus.

23. The difficulties of the economic situation of rising prices and scarcity as also of non-availability of necessities of life are aggravated in the case of the workers by defective consumer price indices. Consequently the erosion of real wages of workers which had already become serious enough in the mid sixties as noted and commented upon by the National Commission on Labour has today become alarming. Economists busy cutting out one another's pet theses, have not enlightened the country, much less the working class, that inflation, stagnant industrial growth, fluctuating agricultural production and accelerated growth of money supply are the causes or consequences of the malaise of the national economy. Moreover, workers have reasons to be sceptical not only because they are excluded from the management of the national economy but also because they are neither heard nor consulted in deciding economic policies. It is, therefore, neither good economics nor good ethics to hold them responsible for rural poverty and unemployment and the falling curve of savings and investment.

24. The tone of approval of recent Government thinking and of current Government measures in the Review of the Economy in the Report is so one-sided and uncritical as is unlikely to receive expert support or even stand up to expert scrutiny. Workers with their enduring memory of the raw deals they have had will not and do not accept the validity of official thinking and do not see the relevance of the recent official measures to the solution of their difficulties. Workers also cannot help being suspicious when they find that noisy references to the need for a comprehensive wages, incomes and prices policy proliferate every time they ask for neutralisation and wage revision to protect their standard of living and real wages from the ravages of inflation which is not of their making and which is not caused by their stagnant levels of remuneration. The Finance Minister made mention of this policy in his 1971 Budget speech. The Planning Commission's team of experts under the chairmanship of its Member, Professor S. Chakravorty has been busy with this exercise for a long time. Either the team or the Planning Commission is not serious about its report and hence it has not been written so far. Or else the Government itself is not quite sure whether and what kind of wages, incomes, prices policy can provide the answer to our economic problems and is, in consequence,

reluctant to publish the Chakravorty Committee Report. If it be so it is difficult to see how and why the review and recommendations of the BRC have to be conditioned, as they obviously are, by the premises of that distant, uncertain shadowy policy on wages, incomes and prices when its consideration does not fall within the terms of reference of the BRC.

25. The specific subject matter of its enquiry, namely bonus, forms and at its maximum cannot but form a very small part of workers' wages, amounting for only 6 per cent of the national income, which forms in turn only a small part of the general category of income. If only the BRC had held on to

this hard, sobering fact its review and appraisal of bonus might have been more realistic and its recommendations for modifications in the Payment of Bonus Act more practical and supported by greater measure of agreement among its members.

BOMBAY,

Sd/-

*September 27, 1974.*

MAHESH DESAI



## SUMMARY OF CONCLUSIONS AND

### RECOMMENDATIONS

#### Concept of Bonus

The concept of bonus as it has evolved partakes of elements of a dual character inasmuch as bonus in general, where there is an amount of available surplus which permits payment of bonus higher than the minimum bonus, has the character of profit-sharing ; on the other hand, minimum bonus which has to be paid in the absence of profits and even with losses, operates *in effect* as an addition or supplement to wage/salary, though it does not conform, in any precise sense, to the concept that the bonus is paid to fill the gap between the actual wage and the living wage, for reasons which have been elaborated by the Bonus Commission in relation to the gap theory. (Paragraph 2.15)

2. Over the years, bonus has come to be an amalgam of its normal character as profit-sharing, taken in its framework of the 'set on' and 'set off' arrangements, and an equivalent of an annual wage in certain concerns while they sustain losses or make only nominal profits. The issue which this background to the enquiry raises is whether the character of bonus as it has thus evolved should remain substantially unaltered or it should be modified in any material way and if so in what manner. Our answer is that the basic character and concept of bonus should remain essentially the same. (Paragraph 2.20)

#### Inflation and the Economy

3. A rather fruitless controversy has cropped up as to whether the recent inflation is or is not a monetary phenomenon. The trend of prices has reflected both monetary and non-monetary factors; each type of factor has had a causal relationship to the trend. Either class of factors is important in a diagnosis of the state and stage of inflation. Neither of them can be overlooked. Inflation is an outcome of the relationship or equation between monetary and non-monetary or demand and output/supply factors. The trend of production and supply and consequent flow of goods and services influence prices as much as, and at times more than, the size of the money stream (Paragraph 4.7)

4. The rapid rate of increase of money supply in the last few years, triggered primarily by extension of Reserve Bank credit to Governments—Central and State—at an unusually high rate, only partly offset by a welcome surge in time deposits with banks (and by other savings), has been the main ingredient of the fuel behind the inflationary fire. Some of the sources of the big bulge in R.B.I. credit—the core of deficit financing—have been the aftermath in increased defence expenditures of the series of hostilities, the

droughts and the heavy refugee relief burden. More recently, in the aftermath of the sharp inflationary uptrend, bank credit to the private sector has also experienced an upsurge and contributed its quota to the sources of inflation. (Paragraph 4.8)

5. Another strong inflationary influence that has been actively at work recently is the general inflationary movement in the world, which is transmitted to India through higher prices of imports and to a smaller extent of exports. The world economy during the last year or so, too, has experienced its worst bout of inflation in the midst of floating exchange rates and widespread relapse from the relatively orderly conditions in the money and exchange markets that characterised the long phase of steady growth during post-war years. The most recent development on the international economic scene is the flare-up in West Asian oil prices following re-eruption of the West Asian War. This has so radically altered the energy outlook of most countries, including our own, and so upset the basis of many of our economic projections and calculations as to require re-thinking much of the strategy and many of the assumptions of our development planning. (Paragraph 4.9)

6. The continuing long-term problem of the Indian economy has been and remains that of inadequate financing of the large and increasing development expenditure. Inflation is largely a reflex and offshoot of inadequacies of financial management as well as of planned development with its serious shortfalls in fulfilment of output targets. These underlie the continuing price uptrend which, once it exceeds certain limits, tends to assume a spiral character. We make these observations because of our basic concern with the trend in the over-all remuneration of workers. It is extremely difficult to compensate labour fully against rising prices and avoid a decline in real wages during inflationary periods, and the only times when real wages have shown some improvement have been periods of comparative price stability or moderate price increases. (Paragraph 4.10)

7. On the whole, the highly exigent state of our balance of payments on a medium-term as well as longer view calls for continued discipline and restraints in the disposition of the national product so as to conduce to the maximum extent practicable to the encouragement of investment and production for the improvement of the national product. Hence it is that along with measures directed to regulate the incomes of other sections of society increases in workers' remuneration, including bonuses, have to be made with due regard to the constant need to keep consumption in the economy within bounds. Hence, too, the

necessity of exploring forms of payment of bonus above certain limits in ways that do not impair the immediate availability of resources for the development of the economy.

8. The persistence of domestic inflation with its disruptive trail of effects adds its own quota of ills to a beleaguered economy. Altogether, the adequate management of the economy poses fresh and high challenges to economic acumen and requires more than conventional expertise and sheer commitment and zeal in pressing forward toward the goals and targets of national policy and endeavour. The new challenges to the economy have to be met. This is an irreducible premise in the current situation of the economy. It is also a premise of our report. An ineluctable part of this premise, which has been referred to above, is the new urgency and relevance of restraint of increases in consumption as a prime consideration in operation of the distributive mechanism, at any rate as a necessary short-term aid to the stabilisation effort. Sarvashri Mahesh Desai and G. Ramanujam do not subscribe to this analysis. (Paragraph 4.18)

#### **Minimum Bonus**

9. All members of the Committee except Shri Mahesh Desai consider that the increase of minimum bonus to  $8\frac{1}{3}$  per cent, if made, from the level of 4 per cent should be treated as a permanent structural once-for-all adjustment in the floor of bonus under the Act, for in the scheme of annual profit bonus in India which is substantively related to profits of the employer-concern, this increased rate of minimum bonus cannot be further raised without irreparably damaging the concept of bonus as a sharing of the profits of the employer. It is, indeed, in this sense that they regard the increase in minimum bonus to the level of a month's wage for a year's work as a structural adjustment in the framework of bonus which does not lend itself to being tampered with periodically. (Paragraph 7.3)

10. Sarvashri N. S. Bhat and Harish Mahindra though they themselves remain opposed to an increase in minimum bonus above its original level *viz.*, 4 per cent, support the above recommendation regarding the permanent nature of the new minimum, if  $8\frac{1}{3}$  per cent minimum bonus were to become a fact. (Paragraph 7.3)

11. Shri Mahesh Desai is of the view that in the light of the definite indications of public policy as understood by him taken in conjunction with the erosion of value of the rupee and the consequent erosion in the standard of living of the worker, the statutory minimum bonus should be raised from  $8\frac{1}{3}$  per cent to 10 per cent for the year commencing in 1973 and 12.5 per cent thereafter. The other members of the Committee do not see any indications of a public policy justifying the raising of the minimum beyond  $8\frac{1}{3}$  per cent. On the other hand, such indications as there are, point in the view of some members to the contrary. (Paragraph 7.4).

#### **Absolute Minimum**

12. The Chairman, Shri R. P. Billimoria and Dr. S. D. Punekar recommend that the absolute figure as an alternative to the minimum bonus rate of  $8\frac{1}{3}$  per cent may be placed at Rs. 125 as against Rs. 80 in the amending Acts and Rs. 40 in the 1965 Act. They recommend that the corresponding absolute figure for persons below the age of 15 may be revised to Rs. 80 from Rs. 50 in the amending Acts and Rs. 25 in the 1965 Act. Sarvashri G. Ramanujam and Mahesh Desai recommend revising the absolute figure of Rs. 80 to Rs. 200 and of Rs. 50 to Rs. 125. Sarvashri Bhat and Mahindra are not in favour of the suggestion to raise any further the absolute figures of Rs. 40 and Rs. 25 in the 1965 Act which have been raised to Rs. 80 and Rs. 50 respectively for persons above and below the age of fifteen, as alternative to the rate of  $8\frac{1}{3}$  per cent through the annual amending Acts. (Paragraph 7.7)

13. The provision of 'set off' is on the whole useful and is also an ancillary to the character of bonus as a share of profits, if not present profits, at least possible future profits. The majority recommends that the 'set off' provision and the period of four years for the duration of each amount of 'set off' may be maintained as at present. Shri Mahesh Desai does not subscribe to this view as he wants bonus above the minimum to be settled not by a formula but by collective bargaining. (Paragraph 7.8)

#### **Linkage of Bonus to Production/Productivity**

14. The existing system of country-wide profit bonus may not be replaced by a universal system extending over the whole economy of bonus linked to production/productivity, as the objective and scope of the two types of bonus schemes are so different that it is not practicable at this stage of their separate development to substitute one system for the other. However, if any employers and their employees by agreement or settlement want to substitute profit bonus by bonus linked to production/productivity, they should be encouraged to do so. Sarvashri G. Ramanujam and Mahesh Desai do not subscribe to this view. (Paragraphs 8.20 and 8.24)

#### **Formula for Computation of Bonus**

15. Four alternatives to the present formula have been suggested by central labour organisation of INTUC as follows:

(i) The statute may fix only the minimum bonus and any bonus over and above the minimum may be decided by collective bargaining between the parties without a ceiling and without 'set off' and 'set on'.

(ii) A percentage of gross profits either before depreciation or after deducting depreciation, to be declared straightway as bonus with a minimum and maximum and 'set off' and 'set on'.

(iii) A universal minimum bonus of  $8\frac{1}{3}$  per cent of the total annual earning subject to an absolute minimum which should be delinked from profits and losses and be termed only as annual or standard

bonus. Such minimum bonus should only be linked to an accounting year and not to the results of the accounting year. Over and above the minimum a profit-sharing bonus may be worked out on the basis of an agreed formula but on the terms that if there is no profit, there should not be any further bonus.

(iv) In lieu of the alternatives as above, a modified form of the present prior charges formula in the payment of Bonus Act might be adopted with minimum, maximum, 'set off' and 'set on'. (Paragraph 9.10)

16. The first alternative is supported by HMS as well. The AITUC would, however, prefer the second alternative suggested by INTUC. (Paragraphs 9.11 and 9.12)

### **The Alternative of Collective Bargaining**

17. Simple as it might seem, the approach of almost exclusive reliance on collective bargaining over and above a minimum bonus has—reluctantly—to be eschewed. (Paragraph 9.15)

### **Bonus as a proportion of Gross Profits**

18. Bonus as a percentage of gross profits either before depreciation or after deducting depreciation, to be declared straightway as bonus with a minimum and maximum and 'set off' and 'set on', has a certain specious simplicity about it and seems likely to make short shrift of several complex issues surrounding bonus which give rise to disputes. However, the simplified basis for bonus embodied in this approach is open to some serious objections which are set out below. (Paragraph 9.16)

(i) This alternative does not provide for any prior deduction of a Governmental share in the profits of a unit before proceeding to allocate the gross profits between employees and employers, and in effect insulates the employees' share from any variation in the incidence of taxation which may be made owing to the exigencies of State, whether on account of the needs of defence or development. As such, the adoption of such an approach is likely to restrict the room for resilience and impair the flexibility of Government's fiscal policies. (Paragraph 9.17)

(ii) A second serious drawback of the proportion-of-gross-profits approach is that though it provides for a minimum bonus over and above wages and benefits for employees, it makes no provision for any return on the capital invested in an enterprise before proceeding to allocate the residual profit between employees and employers, and makes employees entitled to a prior share of gross profits even when these are inadequate to provide for a minimal return on the invested funds of an enterprise. Considering the need for maintaining the incentive to productive investment of capital both in the public and private sectors a return on the invested capital should form a deduction, especially now that a minimum bonus is available to employees as the first claim on any profits (or even without profits), before the remainder of profits is allocated among various claimants to such a residual. (Paragraph 9.20)

### **The Composite Approach**

19. The alternative of the equivalent of a minimum bonus as universal standard bonus with a separate pure profit-sharing bonus over and above it, proposed by INTUC as the third of the four alternatives mentioned by it raises the conceptual problem of setting up two forms of bonus—(a) one an annual wage irrespective of any relation whatever to profit and, therefore, presumably applicable over a much wider area than the present profit bonus and (b) another, profit bonus shorn of its minimum bonus element which would already have been separately provided to employees as a universal standard bonus. It is not clear to us that a Committee which has been asked to consider suitable modifications in the present scheme of bonus can at all recommend a type of bonus, *viz.*, universal standard bonus which has no semblance of likeness to the present profit-sharing bonus. On the merits of its application to the current brand of bonus it would readily appear that the combination of the two bonuses would imply raising, even though marginally, the level of both bonuses together above the present minimum for a large sector of industry where only moderate profits which yield a bonus lower than the minimum are made. This would obviously be harsher for industry generally and unacceptable to employers at a time when the minimum bonus has also been raised. (Paragraph 9.22)

### **Modification of the present formula**

20. In view of the serious short-comings of the various alternatives to the formula which have been mooted, we come to the fourth alternative which is to consider (i) the determination of bonus within the broad framework of the present formula, and (ii) necessary changes therein in the light of the evidence and views submitted to the Committee. (Paragraph 9.23)

### **Add-Backs And Deductions For Computation of Gross Profit**

#### **(1) Payment for Gratuity**

21. The demand made on behalf of employees is that the annual amount payable as gratuity under the Payment of Gratuity Act, 1972, for the accounting year in question should be debited to the profit and loss account; if more than this amount is debited either as a payment or as provision either for that year or relating to previous year or years, the excess shall be added back to the net profits as being extraneous to that year. It strikes us that the basis suggested above is tenable and a consistent one for purposes of calculation of bonus and that it could be adopted for the future with the modification that either the payment made during the year or the provision due and made for the year, whichever is higher, may be taken. (Paragraphs 9.24 and 9.25)

#### **(2) Subsidy**

22. Another demand made on behalf of employees with a view to increasing the available surplus is that incentives or subsidies given to an establishment should not be deducted from the gross profits and if already deducted should be added back. The majority of the

Committee considers that this demand is based on good reasoning. A subsidy or incentive is given for the encouragement of an activity, e.g. greater production or exports of goods or services. Since labour and capital work together to contribute to the outcome for which an incentive or subsidy is given, the case for deduction in all cases of the value of an incentive or subsidy as required under the Second Schedule at present is neither clear nor strong. The majority of the Committee suggests accordingly that item 6(g) in the Second Schedule should be amended so as to be restricted to cash subsidies disbursed through budgetary grants whether made directly or through an agency for specified purposes the proceeds of which are reserved for these purposes, and not all subsidies. Sarvashri G. Ramanujam and Mahesh Desai are opposed to deduction of any and all subsidies or incentives, including cash subsidies, from the gross profits before arriving at the available surplus. (Paragraphs 9.27, 9.28 and 9.30)

#### Depreciation

23. The present bonus formula provides for deduction of depreciation before distribution of bonus; even the proportion-of-gross-profits approach acknowledges the need for providing for deduction of depreciation. A view has been put forward, however, that statutory depreciation under the Income-tax Act tends to allow a larger deduction than many concerns actually provide in their books, and the depreciation to be allowed should be the statutory depreciation or the actual book depreciation, whichever is less. (Paragraph 9.33)

24. We would prefer to adhere to the present basis of statutory depreciation as under the Income-tax Act, which has worked satisfactorily so far; if under the written down value method adopted under the statute more depreciation is deducted in earlier years than under the straight line method, less is deducted in later years. In terms of this proposal, initial depreciation would be deducted like ordinary depreciation wherever admissible under the Income-tax Act. Sarvashri Ramanujam and Mahesh Desai would specifically exclude deduction of initial depreciation and would restrict deduction of depreciation to normal and extra shift depreciation under the Income-tax Act. (Paragraphs 9.33 and 9.34).

#### Development Rebate

25. Sarvashri Mahesh Desai and Ramanujam are opposed to deduction of development rebate or its equivalent as a prior charge for purposes of computation of bonus, and re-call that the Bonus Commission did not recommend it. Sarvashri Bhat and Harish Mahindra not only want the present treatment of development rebate in the formula retained, but in the face of the announced withdrawal of development rebate, suggest introduction of a rehabilitation allowance in the bonus formula; the Committee on Profit-Sharing in 1948 had recommended 10 per cent of the net profits as a first charge to be carried to reserves for this purpose. They consider that in the absence of a rehabilitation allowance, the case for a higher return on capital would be further reinforced. The Chairman, Shri R. P. Billimoria and Dr. S. D. Punekar have no change to suggest in respect

of the treatment of development rebate in the present formula for purpose of calculation of bonus. They note that development rebate might lapse, but the possibility of an equivalent of development rebate continuing remains. They would like the development rebate if it is continued, or its equivalent, to be taken into account in computing the available surplus. (Paragraph 9.35).

#### Taxation

26. It is recommended by the majority of the Committee that direct taxes should be allowed to be deducted at the rates applicable under the respective Acts for the year in question on the balance of gross profits after depreciation. Taxation, may, therefore, be deducted accordingly from gross profits after depreciation and development rebate where admissible. The Committee recommends that the benefit of tax rebate in terms of the 1969 amendment should continue to accrue to the available surplus. The majority of the Committee considers that inasmuch as the tax rebate was originally intended to be added to the 40 per cent share of the employer to enable him to meet the rising costs of maintenance and modernisation of plant and equipment etc., some equivalent of the development rebate should be substituted, if the development rebate is discontinued, and allowed for purposes of bonus computation. Sarvashri Ramanujam and Mahesh Desai dissent from the latter recommendation. (Paragraphs 9.36 and 9.38).

#### Return on Paid-up Capital and Reserves

27. The next important issue that arises concerns the rate of return on paid-up capital and reserves which may be deducted before distribution of bonus. On this, the views of employees and employers as presented to the Committee are sharply divided. Some of the employees' organisations have asked for a reduction in the return to be provided on paid-up capital to 7 per cent as against the present 8.5 per cent and on reserves to 4 to nil per cent from the present 6 per cent. The Chairman, Shri Billimoria and Dr. Punekar appreciate the force of some of the reasoning against continuing to make a distinction between the rate of return on paid-up capital and on reserves. However, a distinction between the two returns has been recognised for a long time and has become embedded in the structure of the bonus formula, deriving some support from the claim of labour to a measure of sharing of the benefits of substantial reserves of companies. On the whole, they consider the distinction might as well continue. Sarvashri Ramanujam and Mahesh Desai concur in continuing to make the distinction between return on paid-up capital and reserves. Sarvashri Bhat and Harish Mahindra would favour a uniform return on capital and reserves. (Paragraphs 9.39 and 9.41).

28. The Chairman, Shri Billimoria and Dr. Punekar have considered the arguments for and against a lowering of the rate of return to be allowed on paid-up capital and reserves and the arguments for providing for a higher return on invested funds in the enterprise in the present capital market and money market context. The interest-rate pattern in general has moved further sharply upward since these rates

of return were fixed and any lowering of these rates would seriously impair the basis of working of the formula. On balance, after duly considering the arguments for reduction or increase in the rates of return the Chairman, Shri Billimoria and Dr. Punekar suggest maintaining the present basis and level of computation of the deduction of the rates of return on paid-up capital and reserves as prescribed in the law as at present. Sarvashri Ramanujam and Mahesh Desai dissent from the above view and favour a lowering of the rate of return on paid-up capital and reserves to 7 per cent and 4 per cent respectively. Sarvashri Bhat and Harish Mahindra, on the other hand, propose that the rate of return on capital which should comprise both paid-up capital and reserves, being the shareholders' funds, should be raised from the present 8.5 per cent and 6 per cent respectively to at least 12 per cent for both elements. (Paragraph 9.42)

#### **Proportion of Available Surplus for Bonus**

29. In regard to the division of the available surplus after providing for depreciation, taxation and return on paid-up capital and reserves, there is again a sharp cleavage in the views presented to the Committee on behalf of labour and employers. (Paragraph 9.43)

30. The Chairman, Shri Billimoria and Dr. Punekar think that, on balance, the case for adhering to the present proportion of division *viz.*, 60 : 40, is a very good one; they consider that for foreign companies the present proportion of division *viz.*, 67 : 33 may also continue. The fact of a higher minimum bonus having to be paid in the event of continued unprofitable working of an enterprise has to be taken into account in determining the proportion of allocation of the available surplus. Shri G. Ramanujam suggests that out of the available surplus, the allocable surplus should be raised to 75 per cent from the present 60 per cent. Shri Mahesh Desai is against having a formula for computing bonus above the minimum. He favours collective bargaining for the determination of bonus above the minimum from year to year and from establishment to establishment. Whatever approach or method is adopted. Shri Mahesh Desai favours an outcome in terms of augmentation of the workers' earnings on account of bonus at all levels—the minimum, the intermediary and the maximum. This would indicate the concept of bonus as deferred wage which he supports. Sarvashri Bhat and Harish Mahindra favour a division of the available surplus in the proportion of 50 : 50 between allocable surplus and employer's share. (Paragraphs 9.45 and 9.46)

#### **Maximum Bonus**

31. In appraising the case for a change in the maximum rate of bonus, we have to acknowledge that the arguments for an increase in the minimum bonus do not, as such, apply to maximum bonus. The two are far ends of a spectrum and the rationale applicable to the two is very different. It has been observed that rates of bonus tend to be high in con-

cerns where rates of wages also are high and if inordinately high rates of bonus are allowed to prevail—and a high maximum rate would encourage these—this might further widen the disparities in the scales of total remuneration of labour inclusive of bonus in units and in industries. A conclusive reason for having a maximum rate of bonus arises from a uniform or fixed ratio (*viz.*, 60 per cent) being applied to the available surplus *in all cases* to arrive at the allocable surplus, though such a uniform ratio is, indeed, inappropriate owing to the wide range of variation in the capital-intensity or labour-intensity of different productive units. (Paragraphs 10.5 and 10.6)

32. The Chairman, Shri G. Ramanujam, Shri R. P. Billimoria and Dr. S.D. Punekar recommended that the maximum may be raised to 25 per cent. Shri Mahesh Desai is opposed to a ceiling on bonus. (Paragraph 10.10)

#### **Salary limit for Bonus Eligibility**

33. The Committee unanimously recommends that the notional ceiling of Rs. 750 per month under Section 12 should be raised to Rs. 1,000 per month and the salary limit of Rs. 1,600 under Section 2(13) should be raised to Rs. 2,000 per month. (Paragraph 10.11)

#### **'Set on'**

34. The provision for 'set on' and its period at four years may be retained. The limit of amount of 'set on' in any one year may be placed at 25 per cent of the wage and salary bill of eligible employees, *viz.*, equal to the annual amount of bonus at the maximum rate recommended by the majority of the committee. Sarvashri Bhat and Harish Mahindra have recommended a maximum bonus of 16 per cent and propose that the 'set on' may also be placed at the same figure. (Paragraph 10.12)

#### **Payment of bonus in forms other than cash**

35. The Chairman, Shri Billimoria and Dr. Punekar recommend that additional bonuses over and above the present maximum rate of 20 per cent should not be disbursed in cash to employees drawing wages/salaries above Rs. 1,000 per month. Such disbursement cannot be recommended in the present state of the economy or on a prospective view of it. (Paragraph 10.13)

36. Bonus payments are also being made by employers on a voluntary basis out of the employer's share of allocable surplus, to employees drawing salaries above the limits prescribed in the bonus law. It would be invidious for such payments which are to higher-paid employees, to continue to be disbursed in cash, if bonus payments made under the law are regulated. All such bonus payments at rates higher than the present maximum rate under the bonus law, *viz.*, 20 per cent, made to employees drawing salaries above the limits for eligibility to bonus (*viz.*, above Rs. 2,000 per month) should also be required to be made, similarly, in non-cash form. (Paragraph 10.16)

37. The Chairman and Shri Billimoria and Dr. Punekar are aware that the alternative at present offered to employees to place a part of their bonus receipts in the Provident Fund, which is available to them only after a long time interval or for specified purposes, has not been popular or acceptable and the provision in this regard made in the law for 1972 has been rescinded in 1973. They consider, however, that the same objection cannot apply to a new form of non-cash payment as a credit to a special 5-year Fund or 5-year fixed deposit (or equivalent insurance policy, the details of which can be worked out), which would have the effect of only temporarily (freezing additional liquidity generated by the higher bonus payments. They recommend that the form of non-cash payment can be suitably devised on the lines suggested above. (Paragraph 10.17)

### **Collective Bargaining and Provisions of Section 34(3)**

38. Sarvashri G. Ramanujam and Mahesh Desai are in favour of retention of Section 34(3) of the Act as it is. They consider that it was to provide for the large and growing contingency of having to resolve the annual recurring disputes of bonus outside the strictly unworkable statutory provisions that the necessity of collective bargaining was envisaged and was incorporated in Section 34(3) of the Act. There are diverse types of industries—labour-intensive and capital-intensive; it is not practicable for a single formula to provide the ideal solution in every case. They consider the deletion of Section 34(3) will lead to a lot of malpractices and collusion between management and labour to arrive at a different or higher quantum of bonus than the law would then permit. They consider the retention of the provision necessary even if in the absence of it, payment of a higher bonus were not to be illegal on the assumption that labour legislation provides in general for minimum benefits and higher benefits are not supposed to be precluded. (Paragraph 11.18)

39. The Chairman and the other four members of the Committee are of the view that the increased bonus disputes have not been caused by any major inadequacies of the bonus formula as such and have been encouraged appreciably by the escape clause in Section 34(3). This has led to pressure to pay even higher bonus than is payable under the Act and these pressures have worked to impair the framework of the Act. It is the fact of bonus being made a bargainable issue through Section 34(3) in particular that has made bonus a perennial source of conflict. It is, therefore, necessary that all bonus payments should be regulated according to the formula of the Act and to this end Section 34(3) should be deleted and any payment of bonus in addition to that provided under the Act should not be counted as expense for purposes of taxation. Also, Government should not entertain disputes for bonus in excess of what is payable under the Act. (Paragraph 11.19)

40. It is not collective bargaining as such to which the Chairman and four members are opposed; it is the combination of collective bargaining and legislative

prescription in the same field to which they take exception. (Paragraph 11.20)

41. The five members consider that it is important that this element of earnings acquires a certain fixity of form rather than continue to retain an amorphous character and remain a source for sowing dissension and disputes over a larger area of the economy. It is essential for this purpose to limit the extent and range of any bargaining both by making any variation from the formula the exception and the application of the formula the rule and by confining bonus uniformly within the prescribed outer limits. Sarvashri G. Ramanujam and Mahesh Desai do not agree with the above views. (Paragraph 11.27)

### **Minimum Number of days worked as condition of eligibility**

42. The Trade Union Federations are not in favour of retaining the qualifying period, while the employers want to retain the condition as it is. We have carefully considered the question and are of the view that the present condition of 30 days working for eligibility to bonus may be retained. (Paragraph 12.2)

### **Dismissal as Disqualifications for bonus (Section 9)**

43. The majority of the Committee considers that the provision in Section 9 goes too far in penalising the employee inasmuch as the disqualification for receiving bonus applies to any and all bonus which might otherwise be payable but has not been paid, including arrears of bonus on account of an earlier year. The majority considers that ineligibility to receive bonus should be limited to bonus for the single year during which the offence which leads to the dismissal occurs and should not apply to any bonus for earlier years which might be due but might not have been paid. The majority recommends that the Act should be amended to limit the scope of this provision accordingly. Sarvashri Ramanujam and Mahesh Desai dissent from this recommendation as they consider that the employee should not be subjected to double punishment—once by losing the job and again by losing bonus as well. (Paragraph 12.8)

### **Bonus Holiday (Section 16)**

44. The majority of the Committee has carefully considered the provisions of the Section. Although some trading and commercial concerns may make profit from the very first accounting year, it is not likely that the industrial concerns which have to begin production after installing costly plant will make profit from the first year. A certain initial period is necessary for a new concern to establish its foothold in the production and marketing of goods and services. On the whole, the majority of the Committee feels that the stipulation of a short initial period free from bonus liability is a salutary provision inasmuch as it provided for postponement of the beginning of bonus liability during the gestation period of a new enterprise or establishment, before it has started earning profits. Since the freedom from bonus liability

is limited to the initial period before commencement of profit there is no possibility of abuse of the provision in order to postpone inordinately the time when the bonus obligation arises. Once profits are made in any year, the provision ceases to operate and (minimum) bonus will be payable even when no profit is made by a concern in any subsequent year. (Paragraph 12.11)

45. The Chairman and Sarvashri Punekar and Ramanujam consider that the period of six years prescribed in the Act is too long for the employees of new establishments to wait before they might expect a bonus, including minimum bonus. They, therefore, recommend that a new establishment should pay bonus (a) from the accounting year in which the employer derives profit from such establishment; or (b) from the fourth accounting year following the accounting year in which the employer sells the goods produced or manufactured by him or renders service whichever is earlier. For this purpose the sale of goods produced or manufactured during the course of a trial run of any factory or at the prospecting stage of a mine or oil should not be deemed to be sale of goods. Shri Mahesh Desai is in favour of abolition of the 'bonus holiday' and for the grant of bonus to employees from the commencement of production. Sarvashri Bhat, Billimoria and Harish Mahindra are against any abridgement of the duration or terms of the 'Bonus Holiday' as at present. (Paragraphs 12.12 and 12.14)

#### **Seasonal Industries**

46. On a full consideration of the complexities of issues thrown up by any effort to reward seasonal workers with a higher bonus—for commensurate work—than non-seasonal workers as well as the equity of treatment of workers in seasonal and non-seasonal industries (which would have to be defined), it is clear to the majority of the Committee that the present basis of proportion of annual wages based on attendance is both the simplest and the most equitable arrangement for award of bonus in seasonal as well as non-seasonal industries. It is possible that before the present legislation came there might have been higher bonus in some seasonal industries which is not covered by the scope of the present legislation but it is not always practicable or equitable to prescribe a legislative basis for a wide diversity of conditions. (Paragraph 12.19)

47. Sarvashri G. Ramanujam and Mahesh Desai consider that in the case of 'seasonal factories' the season should be deemed to be the year in respect of employees employed for the season; for instance where the seasonal workers are entitled to only the minimum bonus, they shall be paid a minimum of one month's bonus for full attendance in the season, and proportionately for lesser attendance subject to a minimum of Rs. 200 for the season. In the case of employees working round the year in seasonal industries, they will be treated as workers in other perennial factories. The favourable treatment to the seasonal workers is intended to help them for the loss in earnings for the period of their non-employment. (Paragraph 12.20)

#### **Special Machinery for the disposal of Bonus Disputes**

48. The present system of resolving bonus disputes otherwise than by collective bargaining requires a drastic overhaul. It is in the interest of all the parties that a recurring annual dispute as bonus is settled expeditiously as well as justly. This objective cannot be achieved if these disputes are referred for adjudication by the existing tribunals. The adjudication machinery in general is found to have outlived its utility. (Paragraph 13.2)

49. In view of the nature and frequency of occurrence of bonus disputes as well as the need for prompt decision in the matter a special machinery exclusively charged with the function of settling bonus disputes will be desirable. The majority of the Committee considers that the proposed Industrial Relations Commissions at the Centre and in the States reinforced by the establishment of special wings with the addition of members having special competence for dealing with bonus matters e.g., in accounts, economics or labour affairs, should provide in due course an adequate answer to the problem of setting up special machinery for the purpose. However, pending the institution of such Commissions, the majority recommends the setting up of 'Bonus Board', both at the national and at the State levels. (Paragraph 13.3)

50. These Boards should consist of one representative of the employing interests who would be well versed in the economics of industries and one representative of labour interests who may have thorough familiarity with labour matters. The third member who will be an independent person should preferably be a sitting judge of the High Court or Supreme Court and selected as such by the concerned Chief Justice. (Paragraph 13.3)

51. The independent member *viz.*, the High Court judge will select members of Bonus Board/Borads representing the employer and employee interests for different industries, out of panels of names of labour experts and management experts as furnished by the respective interests, to be prepared and maintained by the High Court for State-level Boards and by the Supreme Court for national Boards. (Paragraph 13.4)

52. The parties to bonus disputes must have the right of direct access to this Bonus Board. While this right when given to employers will present no problem, wherever multiple unions function the question will arise as to which union among them should be given the right of such direct access. There are already State laws in some States providing for statutory recognition of representative unions. Such recognised unions can be given the right in those areas and industries. Besides, we understand the Government of India is considering legislation for statutory recognition of trade unions. The problem of recognised unions may, therefore, be expected to be resolved in terms of this legislation when passed. For the present, unions recognised under the Code of Discipline or under any statutes, may be given the right of direct access to the Bonus Boards. Where, however, there is no recognised union, any union/unions claiming to represent a majority of workmen

and desiring a direct access to the Bonus Board, should be entitled to have it, provided where such union's/unions' claim to represent the majority of workmen is disputed, the matter shall be decided by the Bonus Board and its decision shall be final. In addition to the right of direct access for the parties, it should be open to the appropriate Government also to refer any bonus dispute to the Bonus Boards on its own initiative. (Paragraph 13.5)

53. Any decision of the Bonus Board, whether majority or unanimous, shall be binding on all the workmen employed in the establishment and the management. There shall be no right of appeal against the decision of Bonus Boards except on the ground that the Board has acted perversely or with impropriety or in excess of jurisdiction. (Paragraph 13.6)

54. Shri Mahesh Desai does not agree to the proposal for creation of separate Bonus Boards. In case bonus disputes cannot be resolved by the parties themselves through collective bargaining and have to be referred to a third party, he wants that the machinery under law and practice as it is today should continue to settle bonus disputes. (Paragraph 13.8)

#### **Access to Accounts and Audit of Accounts**

55. There are two ways of satisfying labour about the accuracy of the figures shown in the P & L Account and balance sheet. One way is for labour to appoint its own auditor in addition to the auditor appointed by the shareholders of the company. In terms of this alternative the Company Law would have to be amended to provide for the representative/recognised union of a company to be represented at the annual general meeting of the company and to arrange to nominate an additional auditor at that time. If, however, the two auditors would differ on admissibility of an item or items in the profit and loss account and the balance sheet, the disputed points could only be resolved by referring them to a third auditor as arbitrator or the Industrial Tribunal/Bonus Board as may be agreed. Taking everything into account the majority of the Committee does not recommend this alternative. (Paragraph 13.18)

56. The other alternative is for the officebearers of the representative/recognised union, when the law providing for compulsory recognition of unions has been passed and unions have been recognised in terms of it, or where there are already unions, recognised under State statutes, to be granted access to the accounts specifically for satisfying themselves that the bonus has been correctly computed. Till the changes visualised here regarding recognition of unions have been made, the *status quo* would continue. In terms of this alternative access to the accounts may be granted to the trade union representatives if they desire to verify specific elements of the bonus computation. To provide for possible implementation of this alternative, provision may be made in the law for the representative/recognised trade union to nominate an accountant—not necessarily a chartered accountant—as an assessor to look into the calculations and verify the correctness jointly with the assessor nominated by the company, who would ordinarily

be the auditor. If there is still a difference of views, and the trade union, not having been satisfied, wishes it to be treated as a bonus dispute the matter may be referred to the special Bonus Board which would become the relevant authority under Sections 23, 24 and 25 of the Payment of Bonus Act. (Paragraph 13.9)

57. Sarvashri G. Ramanujam and Mahesh Desai do not agree with the above views as they insist on labour being satisfied as to the accuracy, propriety, legitimacy and fairness of the accounts themselves. (Paragraph 13.20)

#### **Mode of Recovery of Bonus (Section 21)**

58. The majority of the Committee excluding Shri Mahesh Desai is of the view that the machinery of Bonus Boards may be utilised for enforcing recovery of bonus. The Act may provide for application being made to the Bonus Board if there is delay in the payment of bonus. The Board may hear such application after giving an opportunity to the employer concerned to have his say and may make an order directing the employer to deposit the amount of bonus due in the office of the Bonus Board and the Board shall arrange to make payment of bonus due to the employees. In the event the employer does not deposit the amount the Board may issue a certificate to the Collector for recovery of the bonus amount as arrears of land revenue. Consequently, amendment will have to be made to the Payment of Wages Act and Section 33(c) of the Industrial Disputes Act depriving the authorities at present charged with responsibility under these Acts of the jurisdiction of deciding bonus claims and enforcing recovery thereof. (Paragraph 13.26)

#### **Exemption from Payment of Bonus (Section 36)**

59. The Bonus Boards may also be the "appropriate authority" to consider applications for exemptions from payment of bonus in genuine hard cases. The majority of the Committee, therefore, recommends that Section 36 may be suitably amended to incorporate specific reference to possible relaxation of the minimum bonus obligation in the event of continued losses and enforced accordingly for the purpose of granting exemption. When the Industrial Relations Commissions are set up, this function should be taken over from the Bonus Boards by them. Sarvashri G. Ramanujam and Mahesh Desai dissent from this recommendation. (Paragraph 13.28)

#### **Small Establishments**

60. Sarvashri R. P. Billimoria, N. S. Bhat and Harish Mahindra are of the view that on the question of coverage, there should be no further extension whatever of the scope of the Act, and, therefore, also in respect of establishments employing less than 20 workers. They make this recommendation having regard to the present condition in the country and the severe strains on the economy as also the practicability of enforcing the provisions of the Act in such small undertakings. Shri Mahesh Desai wishes to reiterate the view expressed by the workers' organisations in the Interim Report that the Act should be

extended to cover all wage and salary earners in all areas of employment. He wants that bonus as a statutory right should be available to all sectors of employment irrespective of the nature, character, age or volume of the employing unit. Shri G. Ramanujam is of the view that eligibility to bonus, in the case of non-factory establishments should be coextensive with the applicability of Shops and Commercial Establishments Act. Since these Acts do not prescribe the minimum number to be employed in any unit for the Act to cover it, the Payment of Bonus Act also should apply to all of them without any lower limit as to the number employed. (Paragraph 14.43)

61. The Chairman and Dr. S. D. Punekar recommend that the scope of the Payment of Bonus Act should be extended so as to cover non-factory establishments employing 10 or more persons; this is also the alternative favoured, explicitly or implicitly, by several State Governments which have to administer the Act. No change in the general bonus formula should be necessary if the further extension of the Act is restricted to lowering the limit of size of non-factory establishments covered to 'ten or more persons'. (Paragraph 14.44)

#### **Electricity Undertakings**

62. The Chairman, Shri Billimoria, Dr. Punekar and Sarvashri Bhat and Harish Mahindra recommend that the Electricity Supply Undertakings should continue to be included within the purview of the Payment of Bonus Act and bonus should continue to be determined as it is now with the approval of the State Governments in terms of the Sixth Schedule, XVII (2) (b) (xiii). Again as at present the formula of the bonus should continue to apply as a guideline in the event of reference of a dispute for decision to a tribunal or other authority. They have considered the suggestions for specific amendments of the present Act made by an employees' union and consider that there is no case for changing the basis of depreciation or direct taxes from what are statutorily chargeable to the actuals; a reference to the Development Reserve under the Sixth Schedule also indicates that its scope is very different from that of development rebate, being "equal to the amount of income-tax and super-tax..... on the amount of development rebate". As such, the formula as a general guideline should remain unchanged. Sarvashri G. Ramanujam and Mahesh Desai are in favour of continuing the present practice of deciding bonus disputes in electricity undertakings by the method of collective bargaining under Section 34(3) which they have recommended should be retained in the Act. (Paragraphs 15.11 and 15.12)

#### **Tea Plantations**

63. The Committee does not recommend any change in the bonus formula in application to tea plantations. They note that while the Committee has not shown a response to the demands of the industry for special treatment in regard to bonus, the Committee has also not shown any response to the plea of the labour representatives made during oral evidence regarding

the inclusion of kind payments in the base of wages/salaries on which bonus is calculated. (Paragraph 15.18)

#### **Rubber Plantations**

64. The majority of the Committee considers that Section 6 of the Bonus Act should be suitably amended so as to make the "Rehabilitation or Replantation Allowance" in rubber plantations under the agricultural income-tax laws of Tamil Nadu and Kerala States a prior charge deductible from gross profits under the Bonus Act. Sarvashri Ramanujam and Mahesh Desai dissent from this recommendation and favour continuance of the *status quo* here. (Paragraph 15.19)

#### **Banking**

65. In considering the Committee's approach to the problem of necessary adaptation of the formula for banks, the first question that arises is in regard to the treatment to be accorded to the provisions for transfers to secret reserves. The Committee notes that where there is a question regarding possible excessive transfers to such reserves having an impact on bonus, the matter can be taken up and a certificate from the Reserve Bank called. Although the principles of allocation to such reserves are well understood by banks and are prescribed by statutory auditors, the provision enabling a Reserve Bank certificate to be obtained ensures the possibility of specific review of such transfers and should act as a salutary safeguard against the interest of the employees being adversely affected through the operation of the so-called secret reserves provision. (Paragraph 16.12)

66. Taking account of the increase in minimum bonus that has already occurred and the limit of maximum bonus proposed, the majority of the Committee considers that the terms of the general formula recommended will with minor modifications be reasonably adequate for banks. Besides, the special features of banking companies incorporated in the present legislation should continue. (Paragraph 16.14)

67. In view of the considerable onus placed on banks to incur developmental expenditure on expansion of business in backward and rural areas, which is also more risky, the need for increased transfers to reserves continues. The majority of the Committee thinks, therefore, that it will be equitable to provide for same rate of return on capital and reserves for banks as for other companies. Sarvashri Mahesh Desai and Ramanujam dissent from this view. (Paragraph 16.16).

#### **Life Insurance**

68. Bonus in life insurance which has been in vogue for a long time is, unlike bonus in industrial and commercial practice, not profit-sharing, but an annual supplement to wages. (Paragraph 17.9)

69. On the whole the Committee is inclined to consider that the valuation surplus in life assurance cannot be equated with the profits of ordinary business. The technical complexities of the concept of profit in ordinary business and that of surplus arising out of revisions of estimates in life insurance are such that it seems difficult to apply the terminology of the bonus law as it is to the categories of life insurance. (Paragraphs 17.13 and 17.14).

70. There may, however, be a way of recognising the broad framework of the bonus legislation and bringing insurance within its purview, through a scheme such as follows: (a) Minimum bonus shall apply to life insurance, (b) the maximum bonus shall also apply to life insurance, and (c) within the minimum and maximum limits, bonus shall be regulated either by (i) collective bargaining as it is at present or by (ii) collective bargaining supplemented by a productivity scheme under which bonus to employees within a zone, division etc. is regulated in relation to production/productivity of business within the concerned area; the details of such scheme related to production/productivity may be worked out. A workable scheme of bonus linked to production/productivity could conceivably be the means of improving, even if to a limited extent, the over-all allocation for bonus, to employees as and when such a scheme can be devised in consultation with the employees. In devising such a scheme, an ordinary norm of expansion of business, both in value terms and in terms of coverage or number of policies issued etc. may be developed, and performance may be measured in relation to such norms. (Paragraphs 17.14 and 17.15)

71. In various respects, however, life insurance having a bonus older than that under the Act and based on a different concept (*viz.*, annual supplement to wages) has its own conventions. Several of the provisions of the Act, in particular those relating to computation of gross profits, available surplus, 'set on' and 'set off' of allocable surplus 'bonus holiday' etc. would be hardly applicable as they are. Even the application of minimum and maximum bonus under the Act would seem, on closer consideration, to be of academic value as, in any case, the minimum and maximum of the general bonus legislation would remain a factor in the background of collective bargaining in the sector. On a balance of considerations, therefore, the majority of the Committee recommends continuance of exclusion of life insurance from the purview of the Act. It is suggested, however, that the proposal for development of a link between bonus and production/productivity in the life insurance sector should receive expert scrutiny with a view to adopting the substance of the proposal. (Paragraph 17.16)

72. Sarvashri Ramanujam and Mahesh Desai dissent from the continued exclusion from the purview of the Bonus Act proposed above for life insurance. They would bring life insurance within the scope of the Act, even if very few of its provisions *e.g.*, minimum, maximum etc. might be directly applicable, as such inclusion could be made workable with the help

of Section 34(3) to support collective bargaining within the broad framework of the Act. (Paragraph 17.17).

### **General Insurance**

73. The kind of problems that arise in application of profit-sharing bonus to life insurance, do not arise in respect of General Insurance. General Insurance has a profit and loss account based on annual working of the companies or units of the General Insurance Corporation. General Insurance in its main departments *viz.*, marine, fire, accident etc., is an important ancillary of ordinary business where bonus prevails. It was presumably in recognition of these features that the amendment of 1969 was carried out as a preliminary to extension of the Bonus Act to this sector. There should, therefore, be no difficulty in principle about extending the coverage of bonus so as to include General Insurance. (Paragraph 17.26).

74. Taking all the circumstances into account the Chairman and Dr. Punekar recommend that it may be agreed in principle that the Payment of Bonus Act would be extended in due course to cover general insurance, and a special working group should examine and work out any modifications in the general scheme which may be appropriate and defensible in relation to the industry. Sarvashri N. S. Bhat, R. P. Billimoria and Harish Mahindra are opposed to any extension of the coverage of the Act to sectors of industry or establishments at present excluded from its scope. Sarvashri Mahesh Desai and Ramanujam would extend the Payment of Bonus Act to general insurance straight way and suggest that there is no need of any special consideration of the problem as Section 34(3) which they want to be retained will take care of any problems peculiar to general insurance. (Paragraphs 17.28 and 17.29)

### **Reserve Bank of India : Section 32(viii)**

75. It is relevant to note in the context of the profit-sharing system of bonus that the central bank's profits are *not* regarded as equivalent to commercial profits and nowhere do they form the basis of any form of sharing of profits as such with the employees. The profit of the central bank is of a very special kind. It is by no means the objective of the central bank to work for making profit, much less to maximise it. Such profit as it makes is purely incidental to the performance of its main functions which are, among others, to protect and promote the financial health of the community and stability of the economy. The central bank's profit is especially high during inflationary periods, which indicates that the profit of a central bank directly measures the extent to which it fails—for whatever reasons—to achieve one of its primary objectives. It follows that it would be undesirable to link any bonus in the central bank to its profit in any sense. This would hold even if it were possible to ascertain the commercial profits so-called of the Reserve Bank; we agree in the Bank's present and revised view that it is not practicable to determine such commercial profits from year to year. That the central bank's profit

is in a very special class and could in no case be made the basis of bonus as in the general bonus law, is also clear from the fact that this profit is not subject to taxation. Nor is there a viable criterion for deduction of a reserve (in lieu of depreciation in industry) as in commercial banks. Hence a bonus of the general type as in the Act is wholly inappropriate and inapplicable in the Reserve Bank. (Paragraph 18.19).

76. In the circumstances what could at best be considered for employees of the Bank would be the extension to them of a variant of bonus at a fixed or standard rate, not as a minimum bonus but as the rate of bonus. The purport of a proposal to extend a standard fixed-rate bonus could be met by direct orders of the Reserve Bank Board. (Paragraph 18.20)

77. The majority of the Committee recommends continuance of exclusion of the employees of the Reserve Bank from the scope of the Payment of Bonus Act in terms of Section 32. Sarvashri G. Ramanujam and Mahesh Desai dissent from the above recommendation and propose, on the other hand, that Section 32 of the Payment of Bonus Act be amended so as to delete clause (viii) viz., 'employees employed by the Reserve Bank of India' in order to bring these employees within the purview of the Act. (Paragraph 18.23).

#### **Financial Institutions associated with the Reserve Bank of India : Section 32(ix)**

78. The majority of the Committee recommends continuance of exclusion of employees employed by financial institutions under Section 32(ix) from the purview of the Act. Sarvashri Mahesh Desai and G. Ramanujam dissent from the proposed continuance of exclusion of financial institutions from the purview of the Payment of Bonus Act and recommend that these institutions should be brought within the scope of the Act. (Paragraphs 19.12 and 19.13).

#### **Bonus for Dock Workers and Port Employees**

79. The majority of the Committee is convinced that there should be no differentiation in the matter of payment of bonus to the port and dock workers who handle the same cargo, one set of workers on board the ship and the other on the shore. There is every reason that the rate of bonus for the two categories of workmen should be the same. (Paragraph 20.10)

80. The majority of the Committee notes that an *ex gratia* payment at a rate equal to or slightly higher than the minimum bonus under the Payment of Bonus Act as amended is being paid to the port and dock workers. These workers belong to the essential services sector where measurement of profit of the employers on account of cargo handling is extremely difficult and even impracticable. *Ex gratia* annual payments at a rate equivalent to the minimum and equal to the once-for-all structural adjustment in the minimum rate of bonus consequent upon the recent

increase in it should be accepted as a permanent and non-variable feature of the remuneration of port and dock workers. (Paragraph 20.11)

81. The question remains of the form in which the grant of such annual payments, which have been *ex gratia* in the past, should be effected. The matter is at present regulated by direct Government orders. The majority of the Committee sees no reason for a change in the method of dispensation of bonus under Government orders and recommends that the position may be continued accordingly. In view of the special position of the service of dock and port labour which is of an essential infrastructure character it may continue to be exempted from the purview of the Act. Sarvashri Mahesh Desai and G. Ramanujam dissent from the above view. (Paragraphs 20.12 & 20.13).

#### **Public Sector Undertakings**

82. Notwithstanding the provisions of the Payment of Bonus Act, Government, as a matter of policy, decided that even non-competitive public sector undertakings should also make *ex gratia* payments to their employees of a minimum of 4 per cent of the salary or wage of the employee on the same lines as bonus was payable by public sector enterprises falling under the provisions of the Act. Directions were also issued to those public sector undertakings which were formerly paying *ex gratia* payments higher than 4 per cent that the levels of past *ex gratia* payments should be maintained. The benefit of bonus was later on extended even to officers drawing salary higher than Rs. 1,600 per month provided the enterprises had earned profits and payment was made from the employer's share of the available surplus. (Paragraph 21.4).

83. As the non-competitive public sector undertakings, which are comparatively few in relation to the competitive public sector undertakings, are now paying bonus as *ex gratia*, there is no reason why they should continue to be excluded from the purview of the Act. A majority of the Committee, therefore, recommends that the provisions of the Payment of Bonus Act should be extended to the non-competitive public sector undertakings as well. Sarvashri N. S. Bhat and R. P. Billimoria and Harish Mahindra dissent from this recommendation as they are opposed to any extension of the coverage of the Payment of Bonus Act. (Paragraphs 21.8 and 21.9).

#### **Departmentally-run Government Industrial and Commercial Undertakings**

84. Government industrial and commercial undertakings fall under two different categories, as follows: (1) where the industrial undertakings have been operating under a department of a Government from the beginning or for a very long time. This category would include the Railways and their work-shops, Posts and Telegraphs, Government Printing Presses and Mints, Ordnance Factories under the Defence Department, All-India Radio etc. The category

divided itself further into (a) undertakings e.g., Railways, Posts and Telegraphs etc., which produce and sell goods and services to the public and are thus commercial undertakings; and (b) other undertakings which do not sell their products or services to the public, but are none the less of the nature of industrial undertakings. (2) Industrial and commercial undertakings which were formerly in the private sector (and therefore, were paying bonus) but later on were taken over under the Industries (Development and Regulation) Act, 1951 or other acts e.g., the Bombay Relief Undertakings (Special Provisions) Act, 1958 or the Sick Textile Undertakings (Taking over of Management) Act, 1972. This category includes most of the textile mills which have been taken over and are being run either by the National Textile Corporation or the State Textile Corporations acting as authorised Custodians. The employees of such undertakings were getting bonus before. But such establishments are treated as carried on under the authority of the Department of State Government and are not entitled to bonus under the Act. In most cases, however, the employees of units in this category are now being given *ex gratia* payments equivalent to bonus which are generally equal to the minimum bonus for private sector establishments as these units are mostly running at a loss. In some cases, however, more than the equivalent of minimum bonus and even *ex gratia* payments on part with bonus for other mills are being paid to their employees. (Paragraph 22.2).

85. The majority of the Committee appreciates that the question of bonus for Governmental undertakings might not be one pertaining to suitable amendments of the Act, as the terms and conditions of service of Government's employees might not appropriately be regulated by an Act which defines the obligation of individuals and corporations : Government could extend any facilities or bonus to its staff by its own orders. At present, the salaries, emoluments and benefits of Government employees which include pension, and which distinguish them as a class of employees, are being regulated by direct Government orders and not in terms of legislation, e.g., Provident Funds, Gratuity etc., which governs the conditions of employment in the private sector. It has to be recognised that administratively, the two questions viz., bonus in the sector of private employers and public corporations on the one hand and bonus for Governmental employees, on the other, fall into different realms. In other countries too, bonus to Government employees, where granted—it is not a usual practice—is a separate dispensation from bonus for private employees. Sarvashri G. Ramanujam and Mahesh Desai dissent from the above view on the procedure of possible treatment of bonus for Government employees, if bonus were agreed to be given to them. (Paragraph 22.13).

86. The Chairman and Sarvashri Bhat, Billimoria and Harish Mahindra consider that it is important to undertake a comprehensive review of wages and incomes in the economy with a view to evolving a framework of policy for introducing more order and

system into the scheme of structure of wages, salaries and incomes such as there exists at present, and they recommend that such a review be taken up. It is necessary to define the objectives of the review, which should aim both at securing a more effective functioning of the economic system toward its purposes, especially more rapid economic growth and furthering the social objectives of containing inequality and widening equality by upgrading lower incomes in addition to reducing higher incomes. (Paragraphs 22.18 and 22.19)

### **Bonus to Government Employees**

87. The economy at present is going through a period of tremendous and exceptional strain. With the heavy draft on our foreign as well as domestic resources likely to be entailed by the current critical phase of the economy, which has been compounded by the international oil crisis, the phase of unusual and extreme stress is likely to be a prolonged one. In this situation, any addition to the budgetary deficit or deficit-financing could not be contemplated with equanimity. Also, any addition to taxation specifically to finance the burden of 'bonus' is *ex hypothesi* largely excluded, as the tax resources would in any case be stretched to the limit. Our own appraisal of the likely effects of our recommendations on the economy suggests that the super-imposition of a fixed-rate bonus equal to the minimum bonus under the Act on top of the increases in wages and salaries in the Governmental sector resulting from the Pay Commission's recommendations, is likely to accentuate seriously the strain on the economy at the current juncture and in the near term future. The Chairman, and Sarvashri Bhat, Billimoria and Harish Mahindra, therefore, consider that Government employees should continue for the present to be outside the purview of the bonus. Sarvashri G. Ramanujam and Dr. S. D. Punekar recommend that all industrial and commercial establishments as well as manufacturing and trading establishments, whether run as a corporation, company, commission, society, authority, board, or whether as a department or under the authority of department of Central Government, State Government or local authority, whether run as a captive unit or as an open unit, whether competitive or not, shall be brought within the Payment of Bonus scheme and suitably covered by the Payment of Bonus Act. Where in any industry/establishment, it is found that the Act formula as such cannot be applied, Government shall arrange for evolution of a suitable separate formula through either bipartite or tripartite machinery set up for the industry/establishment concerned. Until this is finalised in the manner aforesaid the employees in all such industries or establishments shall receive the minimum bonus of 8½ per cent subject to the revision in the manner aforesaid. Shri Mahesh Desai does not agree that the coverage should be extended only to workers in commercial-cum-industrial, establishments in the Government sector. He does not consider such limitations of bonus to commercial-cum-industrial establishment only as either practicable or desirable from the employees' point of view. (Paragraphs 22.23, 22.24 and 22.25)

## APPENDIX "A"

### GOVERNMENT OF INDIA MINISTRY OF LABOUR, EMPLOYMENT AND REHABILITATION Bouns Review Committee

Office of the Regional Labour Commissioner  
(Central) Wakefield House, Sprott Road,  
Bombay-1.

Dated : 12th June, 1972.

Dear Sir,

Under Resolution No. U-23018/1/72-WB dated 28-4-1972, the Government of India have constituted a Committee to review the operation of the Payment of Bonus Act, 1965, with the following terms of reference :—

"To review the operation of the Payment of Bonus Act, 1965, and to suggest suitable modifications to the scheme outlined therein and, in particular, to make recommendations on the following issues :—

- (i) Whether establishments (other than factories) employing less than 20 workers, may be covered by the Act and if so, up to what limit of employment? Should there be a separate formula for payment of bonus in these small establishments?
- (ii) Is there a case for raising the minimum bonus (4%) and if so, to what level ?
- (iii) Whether the present upper limit on payment of bonus and the system of 'set-on' and 'set-off' require any alteration and, if so, on what lines ?
- (iv) Whether the entire bonus payment should be related in some way to production/productivity in the undertaking ?
- (v) Whether the present minimum bonus of 4% may continue but a provision be made for its being supplemented through suitable schemes of production/productivity ?
- (vi) To consider and make recommendations on any connected/ancillary matters.

The Committee shall also make a careful assessment of the likely impact of its recommendations on the national economy before finalising them."

2. While a detailed questionnaire will be issued later, I am sending the terms of reference setting out the tasks assigned to the Committee to you with the request that you may kindly let the Committee have the benefit of your views and any relevant information and statistics regarding (a) the operation of the Act and any suitable modifications therein and (b) the various issues listed in the terms of reference given in paragraph one above on which the Committee's recommendations are required.

3. You are particularly required to favour the Committee with your views on two of the issues listed in the terms of reference viz., "(ii) is there a case for raising the minimum bonus and, if so, to what level?" and "(v) whether the present minimum bonus of 4% may continue but a provision be made for its being supplemented through suitable schemes of production/productivity" in advance of your reply bearing on the terms of reference as a whole. If you wish, you may please include in such advance reply your response to paragraph 2(a) above in so far as it pertains to the question of minimum bonus.

4. In particular the Committee will be glad if you please include in your reply information as far as possible, unit-wise regarding the rate at which bonus had been paid to the employees in the industry/trade covered by your organisation for each of the years 1965 to 1970.

5. You will please note the Committee is required to "make a careful assessment of the likely impact of its recommendations on the national economy before finalising them." I shall, therefore, be grateful if you will furnish the Committee with your assessment in this regard in relation to any suggestions that you may make in your reply on any of the issues.

6. The advance reply requested in paragraph 3 above may be sent to the Secretary, Bonus Review Committee, (in 10 copies) so as to reach him not later than the 10th July, 1972; your full reply (in 10 copies) may please be sent to the Secretary of the Committee not later than the 31st July, 1972.

7. Please let the Committee know, in case further clarification of the views expressed by you is required by the Committee whether you or your representative will be in a position to appear before the Committee.

8. Kindly acknowledge receipt of this letter.

Yours faithfully,

Sd/- B. K. MADAN,  
*Chairman.*



APPENDIX "B"  
**BONUS REVIEW COMMITTEE**  
**GOVERNMENT OF INDIA**  
**MINISTRY OF LABOUR AND EMPLOYMENT**

GOVERNMENT OF INDIA OFFICES BUILDING,  
KARVE ROAD, BOMBAY-20.

Dated: 24th July, 1972.

Dear Sir,

The Government of India have appointed the Bonus Review Committee with the following terms of reference:

To review the operation of the Payment of Bonus Act, 1965 and to suggest suitable modifications to the Scheme outlined therein and in particular, to make recommendations of the following issues:—

- (i) Whether establishments (other than factories) employing less than 20 workers, may be covered by the Act and if so, up to what limit of employment? Should there be a separate formula for payment of bonus in these small establishments?
- (ii) Is there a case for raising the minimum bonus (4 per cent) and if so, to what level?
- (iii) Whether the present upper limit on payment of bonus and the system of 'set on' and 'set off' require any alteration and if so, on what lines?
- (iv) Whether the entire bonus payment should be related in some way to production/productivity in the undertaking?
- (v) Whether the present minimum bonus of 4 per cent may continue but a provision be made for its being supplemented through suitable schemes of production/productivity?
- (vi) To consider and make recommendations on any connected/ancillary matters.

2. To enable the committee to form considered views on the several issues referred to it, the committee has prepared a questionnaire, a copy of which is enclosed. The committee will be grateful if you will be so good as to furnish it with your replies to the questionnaire, generally as well as in regard to industries or units with which you are concerned.

3. Organisations of employees and employers and associations of industry and commerce may wish to reply to the general part of the questionnaire and arrange for their member units in various industries and trades to furnish answers to the questionnaire, mainly statistical, for individual units concerned. Public sector undertakings are also invited to supply answers, in particular to questions relevant to them. Concerned Ministries of the Central and State Governments are requested to let the committee have the benefit of their views. The co-operation of all respondents will be highly appreciated.

4. Replies may kindly be sent as expeditiously as possible and not later than 30th September 1972, to the Secretary, Bonus Review Committee, at the above mentioned address. Answers to Part A—General may be sent in ten copies and to Part B—mainly Statistical in three copies.

5. The Committee will appreciate it if you let it know that you or your representative will be available for appearing before the Committee for oral evidence, should the Committee consider this necessary.

6. Kindly acknowledge receipt of the questionnaire.

Yours faithfully,

B. K. MADAN  
*Chairman.*

## QUESTIONNAIRE

### PART A—GENERAL

#### **Concept and Criteria of Bonus.**

1. (a) What do you think is the concept of bonus which underlies the Payment of Bonus Act ? Do you propose any revision of this concept ?

(b) On what criteria would you suggest that the Committee should consider any proposals for changes in the scope and rates of bonus ?

(c) What relative scope for legislative regulation and collective bargaining would you suggest in the frame work of the Payment of Bonus Act ?

#### **Scope of Bonus Act :** **(i) Classes of employees.**

2. Have you any change or changes to suggest in the scope or coverage of the Payment of Bonus Act ?

3. (i) Reasons for exclusion of employees of certain categories of organisations and institutions from the purview of the Act may be—

(a) the non-profit making character and/or absence of separate balance sheets and profit and loss accounts for certain bodies ; (b) regulation of wages/salaries and other terms of service in them on a different basis and by a different machinery than for private sector employees ; (c) a different structure and method of compensation for work in them ; (d) different objectives and functions of some of the excluded bodies, with implications for bonus. Are there other reasons for separate treatment of certain classes of employees ? Do you consider that these reasons are adequate or inadequate for exclusion of the respective categories of employees from the scope of the Bonus Act ? Why ?

(ii) Would you suggest inclusion within the purview of the Act of any class of employees at present excluded therefrom ? If so, for what reasons ?

#### **Scope of Bonus Act :** **(ii) Small establishments.**

4. What is the present position with regard to payment of an annual bonus in non-factory establishments employing less than 20 workers ? Have they followed the example of the larger non-factory establishments covered by the Act, and is payment of some form of bonus in them : (a) a general, (b) a fairly common or (c) an occasional, practice (i) in some regions (specify regions), (ii) in certain trades (mention trades) or (iii) in the country as a whole ?

5. In what form is bonus paid, if it is paid, in such smaller establishments ? Does it vary with profit from year to year or is it usually given irrespective of profits ? Is it ordinarily proportionate to wage/salary ? Please give some examples of the basis on which bonus is commonly paid in such establishments.

6. Would you suggest extending the scope of application of the bonus scheme under the Act to establishments (other than factories) employing less than 20 workers ? If so, down to what size of establishment in terms of number of workers employed ?

7. Do you think that the present formula under the payment of Bonus Act or a somewhat revised general formula would prove too complicated for use in relation to such smaller establishments ? Can it be used in relation to them with some simplification ? If so, in what respects ?

8. What measures would you suggest for effective implementation of any extension of the benefit of provisions of the Bonus Act to such smaller establishments ?

#### **Rates of Bonus : Minimum and Maximum Bonus**

9. It is said that high rates (viz., percentages of wages/salaries) of bonus are usually associated with high wages, and low rates of bonus commonly co-exist with low wages. Do you agree ?

10. Is an increase in minimum bonus likely to have an adverse impact over the medium term on an increase in wages ?

11. It is said that an increase in the rate of bonus could well lead to an improvement in efficiency through more rigorous pursuit of economy in other costs besides labour costs. Do you agree ? Please indicate any scope of absorption, as you see it, of increase of bonus through better productivity.

12. Can you identify any effects of the system of bonus established under the Payment of Bonus Act, especially of minimum bonus irrespective of profits, in the form of an increase in labour costs of industrial and other establishments ? Have such effects been reflected in (i) decline in the net return on capital ; (ii) increase of prices to the consumers ; (iii) the financial results of concerned units, particularly of marginal or loss-making units ?

13. Please give as far as possible for your industry/trade/membership of association, an account of the financial results of working of the units (a) before the Bonus Act was passed and (b) after the coming into operation of the Bonus Act. Please give this account for three years before the Act and for each of the years after the Act.

14. What are likely to be the effects, if any, in the directions listed in question 12 of an increase in minimum bonus ? Is it likely on the whole to affect production to any significant extent, through impairment of the incentive to produce and invest ? In what sectors of industry or categories of establishments do you expect any special impact ?

15. Should there be a change in the maximum rate of bonus under the Act ? Should the present limit on the maximum rate of bonus be removed ? In particular, what should be the implication of a change in the minimum rate of bonus for the maximum rate of bonus ?

16. What is the essential rationale, as you see it, in the light of its actual working, of the system of 'set on' and 'set off' incorporated in the scheme of bonus under the Payment of Bonus Act ? Do you favour its continuation ?

System of  
'set on' and  
'set off'.

17. If the system of 'set on' and 'set off' is continued, would you suggest any change in the arrangements for 'set on' or 'set off' in the Payment of Bonus Act ? What advantages do you expect would accrue from any change that you propose ?

Relation  
Bonus to  
production/  
productivity

18. Would you recommend the replacement of the present bonus related to profits by an alternative system in which (a) the whole or (b) part of the bonus is dependent in one way or another, on production/productivity in the concern ?

19. Is a reliable measure of production/productivity in different types of undertakings available ? If not, could it be devised and maintained without undue difficulty ?

20. Would you suggest that any addition to the present minimum bonus should be related entirely or partly to increase in production/productivity ? Should it be related to increase in production/productivity of (a) the concern as a whole or (b) of a part of the concern in which a worker is employed or (c) the individual worker ? Do you consider that standards for measurement of production/productivity in relation to the wide range of products and services turned out by the establishments which pay bonus can be developed, so as to furnish a basis for an effective general system of production bonus ? If you have any considered suggestion please elaborate.

Other  
Chang

21. Are there any other modifications in any of the provisions of the Payment of Bonus Act, 1965 which you would suggest in the light of your experience and observation of the working of this legislation ?

## PART B—MAINLY STATISTICAL

Please give your (a) name, (b) address, (c) industry or trade, (d) nature of constitution, viz., proprietary concern, partnership, private company, public company, or subsidiary company of an Indian/foreign company.

1. What has been the rate of bonus (as percentage of wages/salaries) in your concern during each year since 1965 ?

Please supply information as in the following table :—

1. Year . . . . .	1965	1966	1967	1968	1969	1970
2. Total amount of bonus distributed.						
3. Total amount of wages/salaries of employees in receipt of bonus.						
4. Rate of bonus . . . . .						

5. Whether bonus was paid :

- (i) by agreement . . .
- (ii) by settlement in conciliation.
- (iii) under award . . .
- (iv) otherwise . . .

2. With reference to column 5 of the table in question 1, please state if bonus disputes in your concern were settled within the framework of the Payment of Bonus Act, 1965 (P.B.A.), and if not, the form and extent of deviation from the provisions of the Act.

3. Have you made, for the accounting year 1969 and after, payment of bonus by way of advance, over and above the rate of minimum bonus under the P.B.A. of 4 per cent ? If so, please state the rate at which you have paid the bonus, including the advance, indicating the advance, if any, included in the total payment separately, for the accounting years 1969 and 1970.

4. (a) Have you paid bonus over and above that payable under P.B. Act to the employees drawing wages/salaries above Rs. 750 per month ? Up to what level of salary have you given this bonus ?

(b) Please state for the last three years (i) the percentage rate of bonus paid to employees drawing above Rs. 750 per month (inclusive of bonus payable under Payment of Bonus Act), and (ii) the total amount of such bonus paid [as in (i) above] and indicate (iii) where this payment figures in your accounts.

5. (a) Have you paid to your employees bonus at a higher rate than that required under the Payment of Bonus Act ? If so, please state for each of the last three years ; (i) the rate (viz., percentage to wages/salaries) of such higher bonus (that is, of the bonus over and above that payable under P.B. Act), and (ii) the amount of such bonus paid over and above that required under P.B. Act.

(b) If the rate of this higher bonus has varied with reference to the level of wages or for different categories of employees, please state the different rates and the basis of variation of the rates, for each of the last three years.

6. Has your concern availed of the 'set on' and 'set off' system of the Payment of Bonus Act ? If so, please state the total amount of 'set on' or 'set off' on account of different years in the past, now being carried forward for adjustment in the next year and after, indicating the 'set on' and 'set off' year wise. Please supply information of the above as in the table below :

	Rate of Bonus	1966	1967	1968	1969	1970	1971
1965	.	.	.	.	.	.	.
1966	.	.	.	.	.	.	.
1967	.	.	.	.	.	.	.
1968	.	.	.	.	.	.	.
1969	.	.	.	.	.	.	.
1970	.	.	.	.	.	.	.

"SET OFF"

	Rate of Bonus	1966	1967	1968	1969	1970	1971
1965	.	.	.	.	.	.	.
1966	.	.	.	.	.	.	.
1967	.	.	.	.	.	.	.
1968	.	.	.	.	.	.	.
1969	.	.	.	.	.	.	.
1970	.	.	.	.	.	.	.

7. (a) Do you have an agreement in force with your employees for replacing the operation of the Bonus Act in relation to your concern by an alternative system or scale of bonus.

(b) Was this alternative system or arrangement for payment of bonus already in operation when the Payment of Bonus Act came into effect ? Or has it been adopted later ? when ?

(c) If you had another scheme or basis of payment of bonus before the Payment of Bonus Act came into force has it been (i) wholly or (ii) partly replaced by the scheme under the Act ?

(d) Has the scale of benefit to employees been increased or reduced as a result of the coming into effect of the Payment of Bonus Act ? (i) To all employees ? (ii) To any sections or grades of employees ? If so, which sections or grades ? Please state the scale or scales of bonus expressed as a rate, *viz*, percentage of wages/salary before and after the operation of the Act.

8. (a) If the payment of bonus in your concern is on the basis of a scheme other than that of the Payment of Bonus Act, is the bonus related to production/productivity ? In what manner ? Please describe the scheme fully, indicating the measure of production/productivity adopted and enclose a copy of the scheme.

(b) Please state for each of the last three years the rate and the total amount of bonus paid by you to employees on the basis of production/productivity.

(c) How does the bonus linked to production/productivity paid by you compare with what would be payable under the Payment of Bonus Act ?

9. Please supply information in the form below for each of the years since the Bonus Act came into force. (Some of the information may have been given in reply to questions earlier. It will be helpful to the Committee if it is consolidated here). (Banks may furnish information with suitable adaptation of the form to their case):—

(1) Name of concern . . .						
(2) Year of establishment . . .						
(3) Accounting year . . .						
(4) Paid-up capital (reference)— As at commencement of . . .	1965	1966	1967	1968	1969	1970
(5) Total reserves as shown on liabilities side of balance-sheets.	1965	1966	1967	1968	1969	1970
(6) Gross profits after deducting management's remuneration and interest charges.	1965	1966	1967	1968	1969	1970
(7) Gross profits in terms of section 4 of the Payment of Bonus Act (P.B.A.).	1965	1966	1967	1968	1969	1970
(8) (A) Depreciation [section 6(a) of the P.B.A.].	1965	1966	1967	1968	1969	1970
(8) (B) Development rebate or allowance [section 6(b) of the P.B.A.].	1965	1966	1967	1968	1969	1970
(8) (C) Direct taxes [section 6(c) of P.B.A.].	1965	1966	1967	1968	1969	1970
(8) (D) Return on capital (Third Schedule of P.B.A.).	1965	1966	1967	1968	1969	1970
(8) (E) Return on or allocation to reserves (Third Schedule of P.B.A.).	1965	1966	1967	1968	1969	1970
(9) Available surplus (section 5 of P.B.A.).	1965	1966	1967	1968	1969	1970
(10) If the bonus paid was minimum bonus, the amount of minimum bonus paid,	1965	1966	1967	1968	1969	1970

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	1965	1966	1967	1968	1969	1970
(11) Allocable surplus [sections 2(4)(a) and (b) of P.B.A.]						
(12) If the bonus paid was more than the minimum bonus, the total amount of bonus paid under P.B.A.	1965	1966	1967	1968	1969	1970
(13) Total amount of wages and salaries of employees eligible for bonus under P.B.A.	1965	1966	1967	1968	1969	1970
(14) Rate (percentage of wages/salaries) of bonus payable under P.B.A.	1965	1966	1967	1968	1969	1970
(15) Proportion of allocable surplus paid as bonus under (10) or (12) above.	1965	1966	1967	1968	1969	1970
(16) Total amount of bonus paid over and above that required under P.B.A.	1965	1966	1967	1968	1969	1970
(A) Festival Bonus . . .	1965	1966	1967	1968	1969	1970
(B) Production Bonus . . .						
(C) Other . . . .						
(17) Total amount of wages and salaries of all employees in receipt of bonus, whether under P.B.A. or otherwise.	1965	1966	1967	1968	1969	1970
(18) Rate of bonus under column No. 15	1965	1966	1967	1968	1969	1970
(19) Remarks . . . . .						

10. Please describe your own experience in regard to the application of the provisions of the Bonus Act to your concern and how far it has promoted industrial peace in your unit.

11. Have you any changes to suggest in the formula for bonus incorporated in the Payment of Bonus Act, 1965, having regard to your own experience of its working ?

12. Please supply:—

(a) two copies of your balance-sheet and profit and loss account for each of the last three accounting years ;

(b) two copies of the particulars of the Production or Incentive Bonus Scheme, if any, in your concern ;

(c) two copies of any bonus award/agreement relating to your concern.

## **APPENDIX "C"**

***Statement showing replies received to Questionnaire (Part A—General) from various Organisations and Units in Private and Public Sectors***



**APPENDIX "D"**

**LIST OF PERSONS WHO APPEARED BEFORE THE COMMITTEE FOR ORAL EVIDENCE**

**BANGALORE**

**6th December 1972**

<i>Organisation/Association/Trade Union</i>	<i>Representatives</i>
1. Syndicate Bank . . . . .	1. Shri K. R. Prasad]
2. Hindustan Aeronautics Ltd., Bangalore . . . . .	1. Shri N. Rajan, Financial Adviser 2. Shri K. P. Rabindranathan, Adviser (Personnel & Industrial Relations).
3. Bharat Electronics Ltd., Bangalore . . . . .	Shri K. B. S. Reddy, Manager (Personnel & Industrial Relations)
4. Bharat Earth Movers Ltd., Bangalore . . . . .	1. Shri L. K. Joshi, Financial Controller 2. Shri P. K. Mukundan, Industrial Relations Manager
5. Indian National Trade Union Congress (Karnataka Branch) . . . . .	1. Shri D. Venkatesh 2. Shri M. Shivanna 3. Shri D. Rajagopal 4. Shri S. Rajagopal 5. Shri V. R. Hoshing 6. Shri T. E. Kalidass 7. Shri B. Sathyanarayana Singh, M.L.A. 8. Shri Subbiah Shetty, M.L.A. 9. Shri E. Kunkaiah
	10. Shri K. P. Jayasalian
	11. Shri Nagarajan
	12. Shri Keshavalu
	13. Shri Janakiram Naidu
	14. Shri Krishna
	15. Shri Venkatesha
6. H.M.T. Watch Factory Employees' Union, Bangalore . . . . .	1. Shri T. E. Kalidass, President 2. Smt. Mary Stella, Vice-President 3. Shri V. C. Thanigachalam, Secretary 4. Shri H. Srinivasamurthy, Jt. Secretary 5. Shri J. V. Jayaramaiah, Treasurer
7. All India Banks Commission Agents' Union, Bangalore . . . . .	1. Shri H. G. Rao, President 2. Shri R. S. K. Sastry, General Secretary
8. India Tobacco Co. Ltd., Bangalore . . . . .	1. Shri A. Basu, General Manager (Personnel) 2. Shri A. B. Mukherji, Personnel Manager
9. Indian Telephone Industries Ltd., Bangalore . . . . .	1. Shri R. R. Savoor, Financial Adviser 2. Shri A. S. Narayanan, Deputy Financial Manager
10. Mysore Chamber of Commerce and Industry, Bangalore . . . . .	1. Shri G. Ramarathnam, President 2. Shri M. V. Krishna Murthy, Vice-President 3. Shri A. Krishna Murthy 4. Shri M. K. Ramachandra 5. Shri Mukherjee 6. Shri Y. N. Gangadhara Shetty 7. Shri C. G. Rama Rao 8. Shri K. G. Kamath 9. Shri S. Santhanam
11. Mysore State Employers' Association, Bangalore . . . . .	Shri B. Gopalaiah, Secretary

## CALCUTTA

24th January 1973

12. Indian National Trade Union Congress . . . . . Shri Kali Mukerjee
13. INTUC (West Bengal) National Union of Jute Workers . . 1. Shri Sisir Kumar Ganguli  
2. Shri Aurobindo Bose  
3. Shri Samar Chakravarti
14. INTUC (West Bengal) Indian National Defence Workers' Federation. Shri S. C. Bhattacharyya
15. INTUC (West Bengal) Service Organisation (Regional P.F. Shri R. R. Mukherjee Staff Association).
16. INTUC (Orissa Branch) and Indian National Mine Workers' Federation (INMWF). Shri Kanti Mehta, M.P., Vice-President of INTUC (Orissa Branch) and General Secretary of INMWF.
17. United Trade Union Congress . . . . . Shri Anil Das Chowdhury, Working Committee Member
18. National Front of Indian Trade Unions (NFITU) . . . 1. Shri Naren Sen, President  
2. Shri Kali Chakravarthy, Director of Research and Documentation.
19. West Bengal Tea Employees' Association . . . . . 1. Shri P. P. Ghosh Choudhury  
2. Shri G. K. Biswas
20. Centre of Indian Trade Unions . . . . . 1. Dr. M. K. Pandhe, Secretary  
2. Shri Manoranjan Roy, M.P., Secretary  
3. Shri Niren Ghosh, M.P., Secretary  
4. Shri Sudhir Kumar, Vice-President
21. Indian Tea Planters' Association . . . . . 1. Shri S. N. Basu  
2. Shri D. C. Ray  
3. Shri A. C. Saxena
22. Engineering Association of India . . . . . 1. Shri H. N. Khira, Vice-President  
2. Shri Ashish Mitra  
3. Shri C. M. Shukla  
4. Shri A. R. Saraogi  
5. Shri A. C. Patankar  
6. Shri S. N. Lal  
7. Shri S. K. Mukerjee  
8. Shri S. R. Singh

25th January 1973

23. Bharat Chamber of Commerce. . . . . 1. Shri Rajaram Bhiwaniwalla, President  
2. Shri K. L. Chowdhary, Sr. Vice-President  
3. Shri R. N. Bangur  
4. Dr. B. Mookerjee  
5. Shri A. K. Rungta  
6. Shri T. K. Jagdish  
7. Shri D. Prakash  
8. Shri K. C. Mukerjee, Secretary  
9. Shri N. Saha, Dy. Secretary
24. Indian Chamber of Commerce . . . . . 1. Shri R. B. Shah, President  
2. Shri P. P. Chakravarty, Vice-President  
3. Shri R. P. Mody, Committee Member  
4. Shri J. M. Jatia, Committee Member  
5. Shri A. Bandyopadhyay, Labour Adviser
25. Bengal National Chamber of Commerce & Industry . . . 1. Shri T. P. Chakravarti, President  
2. Shri Milan Sen, Vice-President  
3. Shri Milan Mukerjee, Executive Committee Member  
4. Shri A. R. Dutta Gupta, Secretary  
5. Shri S. B. Dutt, Labour Adviser

26. Dishergarh & Associated Power Supply Cos. Ltd.	Shri B. B. Ghosh, Chief Engineer
27. Hindustan Steel Works Construction Ltd.	1. Shri H. C. Mishra, Personnel Manager 2. Shri P. B. Sharma, Assistant Financial Adviser
28. Calcutta Dock Labour Board	1. Shri A. Mujumdar, Chief Labour & Welfare Officer 2. Shri S. C. Saha, Chief Accounts Officer
29. Indian Institute of Personnel Management	1. Shri Samar K. Sen, President 2. Shri A. B. Choudhary, Hon. Secretary 3. Major J. Sen Gupta 4. Shri T. K. Jagdeesh 5. Shri Nirmal Bose
30. Individual	Shri T. K. Jagadeesh, Advocate & Labour Adviser
31. Hindustan Steel Officers' Association	1. Shri P. R. Raghavan 2. Shri S. C. Mathur 3. Shri D. Munshi 4. Shri R. K. Chatterji 5. Shri P. G. Das
32. Calcutta Port Shramik Union	1. Shri Makhan Chatterjee 2. Shri Sunil Das Gupta 3. Shri Parvati Das 4. Shri Shyam Chakravarti
33. National Union of Water Front Workers	Shri Sunil K. Dutta, President
34. West Bengal Dock and Port Mazdoor Union	Shri Haripad Ghosh, Assistant General Secretary

**AHMEDABAD**

19th February 1973

35. Textile Labour Association	1. Shri Shantilal Shah 2. Shri A. N. Buch 3. Shri M. T. Shukla 4. Shri N. M. Barot 5. Shri R. M. Shukla 6. Shri D. S. Vasavada 7. Shri Kantilal M. Shah 8. Shri J. C. Desai 9. Shri Manubhai A. Vyas 10. Shri Bhanushankar Dave 11. Shri Somabhai Patel 12. Shri Vijayshankar Trivedi 13. Shri Rasiklal C. Mehta
36. National Labour Organisation	1. Shri A. N. Buch, President 2. Shri N. M. Barot
37. Indian National Trade Union Congress (Gujarat Branch)	1. Shri J. S. Parasar 2. Shri K. B. Patel 3. Shri R. J. Patel 4. Shri Mahendra Brahmabhatt 5. Shri K. C. Vakharia
38. Mahagujarat Mill Mazdoor Union (C.I.T.U.)	Shri Dinkar Mehta, President
39. Gujarat Chamber of Commerce & Industry, Ahmedabad	1. Dr. Bihari Kanaiyalal 2. Shri R. V. Vasa 3. Shri I. P. Shah 4. Shri H. C. Shah 5. Shri L. V. Dani 6. Shri M. A. Jagani 7. Shri I. N. Kania

40. The Ahmedabad Millowners' Association . . . . . 1. Shri Navnital Ranchodlal, President  
2. Shri Chandrakant Bakubhai, Vice-President  
3. Shri R. M. Dave, Secretary
41. Saurashtra Millowners' Association, Surendranagar . . . . . 1. Shri M. H. Shah, Chairman  
2. Shri Sanvatbhai Shodhan, Committee Member  
3. Shri M. B. Umarwadia, Committee Member  
4. Shri A. P. Shah, Secretary  
5. Shri A. D. Trivedi, Asstt. Secretary  
6. Shri Soni, Manager, Maharana Mills
42. The Southern Gujarat Chamber of Commerce & Industry . . . . . 1. Shri Manilal B. Cherli, Ex. President  
2. Shri N. N. Chauhan, Advocate, Member  
3. Shri Dinkarrai B. Patel, Secretary

**MADRAS****27th February 1973**

43. Indian National Trade Union Congress (Tamil Nadu Branch) 1. Shri M. S. Ramachandran, Organising Secretary  
2. Shri R. Rangaswamy, General Secretary  
3. Shri P. L. Subbiah, Organising Secretary  
4. Shri M. Balakrishnan
44. Indian National Trade Union Congress (Andhra Pradesh Branch). Shri G. Sanjeeva Reddi, Vice-President, South-Central Railway Employees Sangh.
45. Port & Dock Workers' Congress . . . . . Shri S. M. Narayanan, General Secretary
46. Dalmia Cement National Workers' Union. . . . . Shri I. M. Moinuddin, General Secretary
47. Southern Railway Employees' Sangh . . . . . 1. Shri T. V. Anandan, General Secretary  
2. Shri G. Rajaram, Working General Secretary
48. Defence Employees. . . . . Shri M. V. Krishnamurthi, General Secretary, South Zone Coordination Committee.
49. Government Press Employees . . . . . Shri Dorairaj, President, INTUC Union
50. Life Insurance Corporation Employees . . . . . 1. Shri M. G. Ghanaseelan  
2. Shri R. Gurumurthi
51. Labour Progressive Federation. . . . . Shri Kattoor Gopal, M.L.C., General Secretary
52. All India National & Grindlays Bank Employees' Federation 1. Shri R. Sadasivan, General Secretary  
2. Shri M. V. Divakaran, Treasurer
53. Mysore Govt. Insurance Department Employees' Union, Bangalore. 1. Shri G. Jagadish Reddy  
2. Shri H. Bommaiah  
3. Shri A. C. Francis
54. Southern India Millowners' Association, Coimbatore . . . . . 1. Shri G. K. Sundaram, Lakshmi Mills  
2. Shri S. R. Krishnamurthy, Law Office SIMA  
3. Shri S. R. Surendran, Sitalakshmi Mills  
4. Shri Raman, Madura Mills
55. The Madras Piecegoods Merchants' Association . . . . . 1. Shri M. Perumal Chetty  
2. Shri K. G. Govindarajulu  
3. Shri K. Ramaswamy

**DELHI****12th March 1973**

56. Indian National Trade Union Congress . . . . . 1. Shri V. V. Dravid (M.P. Branch)  
2. Shri J. C. Dixit, M.P. } U.P. Branch  
3. Shri P. K. Sharma }  
4. Shri P. S. Premi (Punjab Branch)

57. All India Bank Employees' Association, New Delhi . . . . .	1. Shri Prabhat Kar, General Secretary 2. Shri H. L. Parvana, Secretary 3. Shri Jagadish Oberoi, Central Committee Member
58. All India Reserve Bank Employees' Association, Calcutta . . . . .	1. Shri T. K. Ghosh, Vice-President 2. Shri A. K. Sen, General Secretary 3. Shri G. K. Bhardvaj, Secretary 4. Shri N. C. Das, Secretary 5. Shri Biren Sen, CEC Member
59. Industrial Finance Corporation Employees' Association . . . . .	1. Shri H. L. Parvana, President 2. Shri S. L. Batra, Vice-President 3. Shri G. K. Gupta, General Secretary 4. Shri H. K. Sethi, Jt. Secretary 5. Shri S. S. Bhatia, Org. Secretary
60. Industrial Finance Corporation Officers' Association . . . . .	1. Shri M. S. Kang, General Secretary 2. Shri Mohan Singh, President 3. Shri R. R. Jain
61. National Federation of Indian Railway-men . . . . .	1. Shri Keshav K. Kulkarni, General Secretary 2. Shri P. N. Sharma, Organising Secretary 3. Shri Gumansing, Member, Working Committee
62. FICCI Staff Union . . . . .	1. Shri Madan Mohan, President 2. Shri P. L. Batra 3. Shri C. M. Dutta
63. New Delhi Traders Association . . . . .	1. Shri K. L. Baluja, Sr. Vice-President 2. Shri Gulab Bhawnani, Hon. General Secretary 3. Shri P. S. Nagarjan, Hon. Jt. Secretary 4. Shri R. S. Bhatnagar, Member 5. Shri L. C. Dhingra, Secretary
64. Delhi Hindustani Mercantile Association . . . . .	1. Shri Brij Bhushan Sharan 2. Shri Bajjnath Singhania 3. Shri Tirath Ram Sethi 4. Shri Rajendra Gupta 5. Shri R. K. Tandon 6. Shri Ganpat Rai
65. Delhi State Cloth Retailers' Board . . . . .	1. Shri Desh Bandhu Gupta, Hon. Secretary 2. Shri L. Rameshwari Dass, Treasurer

13th March 1973

66. Federation of Indian Manufacturers . . . . .	1. Shri H. C. Jain, Vice-President 2. Shri Sahdev, Committee Member 3. Shri S. Hassija, Secretary
67. Kirana Committee . . . . .	Shri J. L. Duggal, Office Secretary
68. United Chamber of Trade Associations . . . . .	1. Shri Dwarka Prasad Goel 2. Shri O. P. Agrawal
69. Engineers India Ltd. . . . .	Shri M. C. Bansal, Chief Accountant
70. Industrial Finance Corporation of India . . . . .	1. Shri Baldev Pasricha, General Manager 2. Shri R. B. Mathur, Asstt. General Manager 3. Shri D. G. Ramaiah, Manager
71. Fertilizer Corporation of India Ltd. . . . .	1. Shri R. R. Oka 2. Shri Shivran Krishnan
72. Food Corporation of India . . . . .	1. Shri R. S. Gupta, Personnel Manager 2. Shri I. S. Kansel, Jt. Personnel Manager 3. Shri A. R. Srinivasan, Dy. Financial Adviser

73. Hamdard (Wakf) Laboratories Ltd. . . . .  
 1. Shri A. A. Kidwai  
 2. Shri Shamsul-Rab Siddiqui  
 3. Shri S. M. A. Hashimi  
 4. Shri Wajih  
 5. Shri S. Hassija

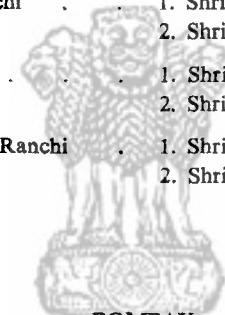
**RANCHI**

14th March 1973

74. Indian National Trade Union Congress . . . . .  
 1. Shri Gopeshwar  
 2. Shri Satyapal Mishra  
 3. Shri K. M. Tewary  
 4. Shri N. G. Sarkar  
 5. Shri Daljit Singh  
 6. Shri R. M. Verma  
 7. Shri Bhupendra Kanthi } Bihar Branch

Shri A. C. Saikia, MLA, General Secretary      Assam Branch

75. Indian National Metal Workers' Federation, INTUC . . . . .  
 (a) Telco Workers' Union, Jamshedpur . . . . . } Shri Gopeshwar  
 (b) Tube Company Workers' Union, Jamshedpur . . . . .  
 (c) Adityapur Workers' Union . . . . . } Shri K. M. Tewary  
 (d) Indian Oxygen Workers' Union . . . . .  
 (e) Industrial Estate Karmachari Congress . . . . . } Shri Satyapal Mishra
76. Officers' Association, Rourkela Steel Plant . . . . . Shri K. S. Shetty, Vice-President
77. National Coal Development Corporation, Ranchi . . . . .  
 1. Shri B. L. Wadehra  
 2. Shri R. S. Murthy, Chief Personnel Officer
78. Hindustan Steel Ltd., Ranchi . . . . .  
 1. Shri P. P. Balakrishnan, Chief (Industrial Relations)  
 2. Shri K. P. Saxena, Chief (Finance)
79. Heavy Engineering Corporation Ltd., Dhurva, Ranchi . . . . .  
 1. Shri S. C. Vadera, M.D.  
 2. Shri D. Singh, Dy. G.M.(P) H.Q.

**BOMBAY**

18th March 1973

80. Reserve Bank of India, Bombay . . . . .  
 Industrial Development Bank of India, Bombay . . . . .  
 Unit Trust of India, Bombay . . . . . } 1. Dr. R. K. Hazari, Deputy Governor  
 Agricultural Finance Corporation, Bombay . . . . . } 2. Shri S. S. Shiralkar, Deputy Governor  
 3. Shri K. N. Mehta, Executive Director
81. Council of Indian Employers :  
 (a) Employers' Federation of India . . . . .  
 1. Shri Naval H. Tata, President  
     Western Region  
 2. Dr. Freddie Mehta  
 3. Shri R. L. N. Vijayanagar  
 4. Shri Bharat G. Doshi  
 5. Shri S. V. Mokashi  
 6. Shri P. C. Mehta  
     Eastern Region  
 7. Shri D. P. Goenka, Vice-President  
 8. Shri K. N. Sircar  
 9. Shri R. L. Moitra  
 10. Shri S. K. Sen  
 11. Shri A. K. Ghosh  
 12. Shri R. M. Bhandari  
     Southern Region  
 13. Shri K. V. Srinivasan, Vice-President  
 14. Shri C. G. Ramanathan

## (a) Employers' Federation of India—(Contd.)

15. Shri C. S. Krishnaswamy  
**Northern Region**  
 16. Shri I. P. Anand, Vice-President  
 17. Shri P. N. Mathur  
 18. Shri N. M. Vakil, Secretary

## (b) All India Organisation of Employers . . . . .

1. Shri H. S. Singhania
2. Shri K. R. Podar
3. Shri R. B. Shah
4. Shri Viran J. Shah
5. Shri P. Chentsal Rao
6. Shri C. L. Gheewala
7. Shri L. C. Joshi

82. Indian Banks Association, Bombay . . . . .

1. Shri B. N. Adarkar
2. Shri J. N. Saxena
3. Shri P. F. Gupta
4. Shri S. G. Shah
5. Shri S. R. Adwalpalkar
6. Shri C. Vijay
7. Shri J. R. Ghadiali

83. Maharashtra State Road Transport Corporation, Bombay . . . . .

1. Shri R. G. Saraiya, Chairman
2. Shri Sheshadri, Vice-Chairman
3. Shri Salvi, General Manager

84. State Bank of India, Bombay . . . . .

Shri R. K. Talwar

85. Indian National Trade Union Congress, New Delhi . . . . .  
 Maharashtra Branch (INTUC).

1. Shri C. M. Stephen
2. Shri S. W. Dhabe
3. Shri L. D. Gandhi
4. Shri N. K. Bhatt
5. Shri L. D. Gandhi
6. Shri V. R. Hoshing
7. Shri H. J. Naik
8. Shri D. P. Patil
9. Shri A. T. Bhosale
10. Shri H. N. Trivedi
11. Shri S. W. Dhabe
12. Shri S. D. Dange
13. Shri S. W. Dhabe
14. Shri G. M. Khode

All India Bank Employees' Federation . . . . .  
 Indian National Sugar Mills Workers' Federation . . . . .  
 Indian National Transport Workers' Federation . . . . .  
 Indian National Textile Workers' Federation . . . . .

सत्यमेव जयते

Indian National Cement Workers' Federation . . . . .  
 Indian National Electricity Workers' Federation . . . . .Indian National Food and Drink Workers' Federation . . . . .  
 Indian National Rural Workers' Federation . . . . .

86. Export Credit &amp; Guarantee Corporation Ltd., Bombay . . . . .

1. Shri P. B. Satagopan, General Manager
2. Shri N. Chandrasekaran, Secretary
3. Shri G. S. Gupta, Accounts Officer

87. Hind Mazdoor Sabha . . . . .

1. Shri A. Subramanian, MLA, President
2. Shri Natwar Shah, Vice-President
3. Shri Ram Desai, Secretary
4. Shri Vasant Kulkarni, Secretary
5. Shri F. M. Pinto, MLA, Member

19th April 1973

88. Bharatiya Mazdoor Sangh . . . . .

1. Shri Prabhakar Ghate
2. Shri Manohar Mehta
3. Shri G. S. Gokhale
4. Shri Kishore Deshpande
5. Shri A. M. Puranik
6. Shri N. B. Deshpande
7. Shri A. G. Bhanu
8. Shri V. Y. Lotlikar

Bharatiya Textile Workers' Federation . . . . .

National Organisation of Bank Workers . . . . .

National Organisation of Insurance Workers . . . . .

Swayattashasi Karmachari Mahasangh (Local Self Govt.) . . . . .	9. Shri P. V. Palvankar
Bharatiya Engineering Mazdoor Sangh . . . . .	10. Shri G. S. Nayak 11. Shri P. Wadwa
89. Hind Mazdoor Panchayat . . . . .	Shri V. N. Sane
90. Textile Labour Association, Ahmedabad . . . . .	1. Shri Shantilal Shah, General Secretary 2. Shri Ramanlal Shukla
91. Tata Hydro Cos' Employees' Union . . . . .	1. Shri Mehta 2. Shri S. M. Dharap 3. Shri R. P. Nair
92. All India National Life Insurance Employees' Federation . . . . .	1. Shri T. N. Krishnan 2. Shri M. R. Desai 3. Shri Joginder Singh 4. Shri C. P. Merchant
93. All India LIC Employees' Federation . . . . .	1. Shri P. P. Patil 2. Shri A. V. Nachane 3. Shri R. J. Ghurye 4. Shri N. S. Ghanekar 5. Shri R. A. Rao
94. Confederation of Central Government Employees & Workers and National Federation of P. & T. Employees, New Delhi.	1. Shri C. P. Gupta 2. Shri S. S. Nair 3. Shri M. G. R. Nair 4. Shri P. J. Thatte 5. Shri Shantaram Jadhav 6. Shri N. Y. Lokhande 7. Shri S. Singh 8. Shri N. S. Tamhankar
95. Indian Sugar Mills Association, New Delhi . . . . .	1. Shri A. S. Ruia 2. Shri L. N. Wahie 3. Shri R. Venkataraman
96. Federation of Electrical Undertakings, Bombay . . . . .	1. Shri R. P. Aiyer 2. Shri Pingre
97. Clothing Manufacturers' Association of India सूचना नियन्त्रण . . . . .	1. Shri J. J. Desai, Secretary 2. Shri Mohan Mahajani 3. Shri S. L. Shah 4. Shri Rajpal Puri



20th April 1973

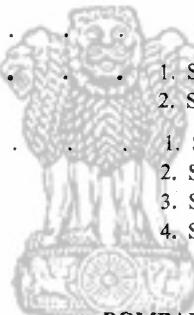
98. The Millowners' Association, Bombay . . . . .	1. Shri Ramprasad Poddar, Deputy Chairman 2. Shri Ratansi Mulji 3. Shri Pratap Bhogilal 4. Shri R. N. Joshi 5. Shri R. L. N. Vijayanagar, Secretary 6. Shri H. S. Poredi 7. Shri P. M. Mantri 8. Shri R. D. Shirali
99. All India Manufacturers' Organisation, Bombay . . . . .	1. Dr. B. V. Bhoota, President 2. Shri N. D. Sahukar 3. Shri B. D. Somani 4. Shri V. B. Kamath 5. Shri Ram Agrawal 6. Shri H. P. Merchant 7. Shri D. P. Birla 8. Shri P. L. Badami 9. Shri K. S. James

100. Life Insurance Corporation of India . . . . . 1. Shri R. M. Mehta, Managing Director  
2. Shri R. B. Pradhan, Executive Director, Personnel  
3. Shri A. W. Dharwadkar, Assistant Secretary, Personnel
101. Travancore Chamber of Commerce, Alleppey, Kerala . . . . . Shri A. H. Vohra, Vice-Chairman
102. Formerly Chairman of the Bonus Commission & President, Industrial Court, Maharashtra. . . . . Shri M. R. Meher, I.C.S. (Retd.)
103. Bureau of Public Enterprises . . . . . 1. Shri P. C. Bhattacharyya, Director General  
2. Shri Y. P. Passi, Director
104. Institute of Chartered Accountants of India . . . . . 1. Shri S. K. Gupta, Vice-President  
2. Shri Banshi S. Mehta, Member of the Council
105. General Insurance Employees All India Association . . . . . 1. Shri Madan Mohan, President  
2. Shri K. S. B. Pillai  
3. Shri J. G. Kothare, Joint Secretary  
4. Shri J. B. Pendse  
5. Shri A. B. Aga  
6. Shri Raghunath V. T.  
7. Shri Ganesh Rao

**OOTACAMAND**

28th May 1973

106. Government of Tamil Nadu . . . . . Shri G. Kamalaratnam, IAS, Commissioner of Labour
107. All India Trade Union Congress . . . . . 1. Shri M. S. Krishnan, Vice-President  
2. Shri A. M. Govindarajan, Member, Working Committee
108. All India State Bank of India Staff Federation . . . . . 1. Shri C. Coutto  
2. Shri V. Ganesan  
3. Shri T. A. Narayana  
4. Shri V. M. S. Ramakrishnan

**BOMBAY**

20th June 1973

109. Government of India
- (a) Ministry of Finance, Deptt. of Economic Affairs      }  
 (b) Department of Banking . . . . .      }  
 (c) Bureau of Public Enterprises . . . . .      }  
 (d) Ministry of Railways (Rail Board) . . . . .  
 (e) Ministry of Shipping & Transport . . . . .  
 (f) Ministry of Works & Housing . . . . .
1. Shri R. Narasimhan, Additional Secretary  
2. Shri J. N. Lalvani, Jt. Secretary  
3. Shri A. K. Mukherjee, Deputy Secretary  
4. Shri R. Srinivasan, Director  
5. Shri Madhav, Additional Director  
6. Shri P. H. Trivedi, Jt. Secretary  
7. Shri Gopalaswamy, Jt. Secretary  
8. Shri Srivastava, Dy. Secretary
110. Department of Indian Posts & Telegraphs, New Delhi . . . . . 9. Shri D. N. Ramchandani, Member (Administration)

**CONFIDENTIAL**

**APPENDIX "E"**

Dr. B. K. Madan

No. 961

Bonus Review Committee,  
Government of India Offices Building,  
3rd Floor, Room No. 318,  
Karve Road, Bombay-20.

June 20, 1973.

Dear Shri Raghunatha Reddy,

The Bonus Review Committee met in Bombay today and after hearing the representatives of the Govt. of India in regard to departmental undertakings, and after passing a resolution expressing sorrow at the demise of Shri Satish Loomba, one of the members of the Committee, adjourned without continuing its deliberations. In the assumption that a successor to Shri Satish Loomba on the Committee would be appointed, representatives of employers as well as labour expressed the view that further discussions in the Committee in the absence of the member to be appointed would not be fruitful at this stage. The Committee has already fixed three successive days, viz., 9th, 10th and 11th July, for its next session of meetings and decided to adhere to these dates for the purpose of meeting again, if by that time the vacancy in the membership has been filled. If the vacancy is not filled before then, the Committee would meet again only on the 3rd & 4th August.

I am writing to apprise you of the situation regarding completion of the Committee's work about which the Committee is aware that the Govt., are extremely keen. The Committee shares the Govt's. keenness in this respect and I am writing to you accordingly kindly to expedite action to complete the Committee's membership to enable it to finish its work.

With best regards,

Yours sincerely,

Sd/- **B. K. MADAN**  
*Chairman*



Shri K. V. Raghunatha Reddy,  
Union Minister for Labour & Rehabilitation,  
Government of India,  
New Delhi.

Copy forwarded with compliments for information to Members.

Copy forwarded with compliments for information to Shri P. M. Nayak, Secretary, Ministry of Labour & Employment, New Delhi.

D. O. No. 629-MP/LM/73  
 Minister for Labour and Rehabilitation,  
 Government of India,  
 New Delhi-1.

25th June, 1973.

Dear Shri Madanji,

I am in receipt of your letter No. 961 dated 20th June, 1973 regarding the appointment of a successor to late Shri Satish Loomba on the Committee. Thank you for the same.

I am having the matter looked into.

With my best regards.

Yours sincerely,

Sd/- K. V. Raghunatha Reddy.

Dr. B. K. Madan,  
 Chairman,  
 Bonus Review Committee,  
 Ministry of Labour & Employment,  
 Govt. of India Offices Building,  
 3rd Floor, Room No. 318,  
 Maharshi Karve Road, Bombay-20.



D. O. No. U 23012/1/73-WB  
 Minister for Labour and Rehabilitation,  
 Government of India,  
 New Delhi-1.

9th August, 1973.

Dear Shri Madanji,

In continuation of my previous letter dated 25th June, 1973, I wish to write to say that I have tried my best to persuade the All India Trade Union Congress to nominate a person to fill up the place of late Shri Satish Loomba but they are not inclined to suggest any name. I would request that, notwithstanding the fact that the AITUC has not nominated a person to fill up the place of Shri Satish Loomba, the Committee should continue its deliberations, carry on the good work so far done and give us its report as early as possible. I have no doubt you would kindly appreciate the fact that the country and the Parliament are awaiting a report from the Bonus Review Committee and there is a lot of expectation about it.

With my best regards,

Yours sincerely,

Sd/- K. V. Raghunatha Reddy.

Dr. B. K. Madan,  
 Chairman,  
 Bonus Review Committee,  
 Government of India Offices Building,  
 3rd Floor, Room No. 318,  
 Maharshi Karve Road, Bombay- 20.

SECRETARIAT OF THE COMMITTEE  
 (As on 27th September 1974)

*Secretary*

Shri K. R. WAZKAR

*Dy. Director*

Shri V. A. IYER

**Staff Members**

1. Shri M. S. Mande	(Senior Investigator)
2. Smt. J. K. Karandikar	(Junior Investigator)
3. Shri P. K. U. Krishnan	(Stenographer)
4. Shri S. V. Karmarkar	(Stenographer)
5. Shri K. V. Mirchandaney	(Upper Division Clerk)
6. Kum. D. S. Vijayalaxmi	(Lower Division Clerk)
7. Kum. K. B. Rane	(Lower Division Clerk)
8. Shri S. D. Savant	(Lower Division Clerk)
9. Shri R. B. Savant	(Daftary)
10. Shri M. V. Salvi	(Peon)
11. Shri. K. B. Redkar	(Peon)
12. Shri K. P. Nerurkar	(Peon)

